DOCUMENT RESUME

ED 220 229 RC 013 530

AUTHOR Whittlesey, Barry D.; And Others
TITLE A Report with Recommendations on State Governmental Organization and Legislative History of California Indians.
INSTITUTION California State Dept. of Housing and Community Development, Sacramento. Indian Assistance Program.
SPONS AGENCY California State Office of Planning and Research, Sacramento.; Department of Housing and Urban Development, Washington, D.C.
PUB DATE Jun 74
NOTE 122p.

EDRS PRICE MF01/PC05 Plus Postage.
DESCRIPTORS Agency Role; American Indian Education; *American Indians; Delivery Systems; Employment; *Federal Indian Relationship; Federal Legislation; Federal Programs; Health Services; Housing; *Program Descriptions; *State History; *State Legislation; *State Programs
IDENTIFIERS *California

ABSTRACT

The report is twofold in presenting an analysis of current Indian programs in the State of California with recommendations for improvement based on a study of state and federal agencies and a brief history of Indian legislation significant for California Indians. Recommendations proposed were establising a new Division of Native American Affairs in the Department of Housing and Community Development; adopting a policy statement regarding the State's position on Indian affairs; formulating a legislative program to correct inequities and inconsistencies in federal and state status; developing Indian units within the Departments of Health and Education to perform functions as intended by authorizing legislation; disseminating information to the Indian community regarding programs available locally; adopting a uniform State policy dealing with Public Law 280. Program descriptions include state agencies (health, welfare, housing, community development agriculture, criminal justice, and education), federal programs (Bureau of Indian Affairs, Indian Health Service, Housing and Urban Development), and Indian organizations (California Rural Indian Health Board, Inc., Inter-Tribal Council of California, California Tribal Chairmen's Association, and California Indian Education Association). Appendices contain full text of major Indian legislation pertinent to California Indians. (ERB)

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A REPORT WITH RECOMMENDATIONS ON STATE GOVERNMENTAL ORGANIZATION AND LEGISLATIVE HISTORY OF CALIFORNIA INDIANS

INDIAN ASSISTANCE PROGRAM

STATE OF CALIFORNIA

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

RC 013530

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A REPORT WITH RECOMMENDATIONS ON STATE GOVERNMENTAL ORGANIZATION AND LEGISLATIVE HISTORY OF CALIFORNIA INDIANS

STATE OF CALIFORNIA

OFFICE OF PLANNING AND RESEARCH

Robert J. De Monte, Director

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Prepared by:

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Barry D. Whittlesey, Director
James M. Hicks, Jr., Chief of
Division of Research and Assistance

James A. Norvall, Program Manager
Jack R. Sanderson, Native American Affairs Coordinator
Wilfred K. Colegrove, Consultant

June 1974

This report was financed in part through a comprehensive planning grant from the U.S. Department of Housing and Urban Development through the Office of Planning and Research.

RC01 3530

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The figures reproduced in this report are pictographs by the Chumash Indians in San Luis Obispo County and Yokut Indians near Tehachapi.

INTRODUCTION

INTRODUCTION

The objective of this report is twofold:

- Define Indian programs, determine deficiencies, and recommend corrective measures.
- Present a history of California Indians from a legislative perspective.

It would be easy to prepare an "apple pie and motherhood" statement of issues and resolutions. That, however, does not begin to untangle the myriad of underlying supportative issues that have by tradition been ignored. It would, on the other hand, be impossible to identify and research all issues and problems. Therefore, the approach taken in this study was to:

- Historically define major legislative issues without becoming repetitive or using emotional appeal.
- Identify the current status of federal and state agencies' attempts to be responsive to Indian needs in terms of authority and responsibility.
- Prepare a recommended course of action to fill the gaps in services.
- Establish a cumulative background from which an Indian policy can be formulated.

PERSPECTIVE

Justice for American Indians - Speech by President Nixon

For too many years the American Indians -- the first Americans -- have been the last Americans to receive the rights and opportunities to which they are entitled. This Administration has taken the initiative to change this picture.

For its part, the Federal Government must put behind it the role of autocratic manager of Indian reservations. We shall continue to encourage Indians and their tribal governments to play an increasing role in determining their own future. We are also particularly determined to defend the natural resources rights of Indian people.

The last five years have been historic steps in Federal Indian policy. In 1971, we worked closely with Indian leaders to achieve a settlement of Alaska Native claims, a settlement consistent with America's sense of fairness and also indispensable to the growth and development of all of Alaska.

We also returned lands taken away long ago from the Taos Pueblo at Blue Lake. We returned lands wrongfully taken from the Yakima people. Because the Menominee people have seen their tribal status involuntarily terminated but had nevertheless kept their land and their tribal structure together, the Congress enacted and I signed the bill which restored Menominee tribe to trust status. In the courts, we are forcefully asserting Indian natural resources rights, as we have done in protecting Indian rights in Pyramid Lake.

One measure of our attempt to foster a better, more humane policy is the level of Federal funding benefitting American Indians -- over twice what it was five years ago or about $1.6 billion.

I am especially encouraged by the fact that the rate of infant deaths, pneumonia, influenza, and tuberculosis is significantly lower among Indians than ever before. Although we have not yet achieved our full goals of health and educational services for the Indian people that are fully compatible with those of the general population, this progress demonstrates our continuing commitment.

The Congress has shared in these accomplishments in a spirit of bipartisan cooperation. I hope that I will soon have on my desk two more enactments on which Congressional action is progressing: measures to speed Indian economic development and to upgrade the position of the Commissioner of Indian Affairs to the Assistant Secretary level. Also still awaiting Congressional action are four other proposals I have submitted previously: to permit turning over to Indian tribal governments the management and control of Indian programs; to create an Indian Trust Counsel

with authority to safeguard Indian natural resources rights; to help ensure that funds for Indian education actually reach Indian children; and to provide greater local control over federally assisted reservation programs through a program of tribal grants.

Looking forward, I shall ask that the Bureau of Indian Affairs make specific plans to accelerate the transfer of significant portions of its programs to Indian tribal management, although I repeat my assurances that, while accelerated, these transfers will not be forced on Indian tribes not willing to accept them.

President RICHARD M. NIXON
State of the Union Message, 1974

President Nixon said "... for too many years the American Indians have been the last Americans to receive the rights and opportunities to which they are entitled."

Why is this so? Why has it taken so long to recognize and deal with Indian problems? Perhaps it is not for lack of desire but rather like embarking upon a "voyage of uncertain destination, with darkened skies overhead and limited provisions." Solicitor Margold spoke of this in his introduction to the Statutory Compilation of the Indian Law Survey. 1/

"During the century and a half that this compilation covers, the groups of human beings with whom this law deals have undergone changes in living habits, institutions, needs, and aspirations far greater than the changes that separate from our own age the ages for which Hammurabi, Moses, Lycurgos, or Justinian legislated. Telescoped into a century and a half, one may find changes in social, political, and property relations which stretch over more than thirty centuries of European civilization. The toughness of law which keeps it from changing as rapidly as social conditions change in our national life is, of course, much more serious where the rate of social change is twenty times as rapid. Thus, if the laws governing Indian affairs are viewed as lawyers generally view existing law, without reference to the varying times in which particular provisions were enacted, the body of the law thus viewed is a mystifying collection of inconsistencies and anachronisms. To recognize the different dates at which various provisions were enacted is the first step towards order and sanity in this field.

Not only is it important to recognize the temporal "depth" of existing legislation, it is also important to appreciate the past existence of legislation which has, technically, ceased to exist. For there is a

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1/ U. S. Department of the Interior, Office of the Solicitor, Statutory Compilation of the Indian Law Survey: A Compendium of Federal Laws and Treaties Relating to Indians, edited by Felix S. Cohen, Chief Indian Law Survey, with a Foreword by Nathan R. Margold, Solicitor, Department of the Interior (1940), 46 volumes.

very real sense in which it can be said that no provision of law is ever complely wiped out. This is particularly true in the field of Indian law. At every session of the Supreme Court, there arises cases in which the validity of a present claim depends upon the question: What was the law on such and such a point in some earlier period? Laws long repealed have served to create a legal rights which endure and which can be understood only be reference to the repealed legislation. Thus, in seeking a complete answer to various questions of Indian law, one finds that he cannot rest with a collection of laws "still in force" but must constantly recur to legislation that has been repealed, amended, or superceded."

This study and report identifies major Indian legislation, presents an analysis of current Indian programs, and recommends changes which could occur within a short time frame.

CONCLUSIONS

Since the Governor's Advisory Commission Report in 1965, and subsequent resolutions by the Legislature memoralizing Congress and Federal agencies to resume providing services to California Indians, tremendous gains have been made toward solving the problems as they were so articulately defined in the Commission Report. However, the gains were only the first step in the process to upgrade the socio-economic status of the California Indians to a comparative level with the citizenry of California. The fact remains, according to the 1970 Census, the American Indian still remains in the unenviable position of being the lowest in all categories measuring socio-economic development.

More specifically, the following conclusions have been derived from the study research and analysis:

1. Improved Services

   Without question the State of California has improved services to Native Americans in California by recognition of the problems and improved system of delivery. A major factor in this upgrading of services can be attributed to: (1) increased awareness of program opportunities by Indian groups and the competitiveness of the Indian groups seeking program funds; (2) Indian organizations providing a vehicle that the agencies can utilize by direct contract for services; and (3) improved relations between agency departments and the Indian communities. It should be noted that the majority of the program activities involving Indians is provided by the Health and Welfare Agency. However, it appears that the program effort is based on departmental discretion rather than an Agency plan of service.

2. Indian Divisions

   There are three Indian divisions set up within the executive branch of the state government. The following is subjective analysis of the functions of the units and effectiveness of performance regarding the functions:

   -- Indian Health Unit - The functions of this unit as defined by legislative mandate (Section 429.30 and 429.31 of the Health and Safety Code) covers a wide range of activities. Establishment of a health data information base on the Indian population to coordination of agency activities with the Indian communities.

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The "unit" staffed by an Indian Public Health nurse is housed in the Family Health Services Division and performs only minimal functions as dictated in the mandate. It is a physical impossibility for one person to service over 140,000 Indians located in all geographical areas of the state. The observation does not reflect on her professional capabilities.

-- Indian Education Unit - In operation for four years, the unit functions mainly as a coordinating unit for Indian programs. Until 1972, with the advent of funds under the Early Childhood Education Projects (AB 1258, 1972) the primary source of funds for the unit had to be derived from BIA funds for schools on or near reservation areas.

Operating within the "Bilingual-Bicultural Task Force" of the Department of Education, the unit appears to be under-staffed and under-funded to perform the program activities to meet the education needs of the Indian people.

-- Indian Assistance Program - Originally, operating within the Office of Planning and Research, the program is funded by federal monies contracted to the state by the Department of Housing and Urban Development (HUD) (701 Planning). It is not clear what the function of the program was during that period other than liaison activities. With the recent interagency agreement between the Office of Planning and Research (OPR) and Department of Housing and Community Development (HCD) the functions have been clearly defined. A planned program has been implemented and intensive program activities will be conducted.

3. Policy Statement

The state agencies do not have a codified statement or plan to identify the state's policy regarding service to Native Americans residing within California.

4. Coordination

Intergovernmental coordination of program activities are limited, which results in duplication of services. However, it appears that the duplication of services is offset by the lack of services, since the area of program responsibility has not been clear. The agencies, fearing duplication of services, do not provide the necessary services.

5. Types of Services

As noted above, activities of the state agencies are concentrated in the area of health, welfare, education and housing, which amplifies the lack of services in the area of natural resource development and economic development. Economic self-sufficiency of the Indian people will reflect in lower utilization of welfare services.

First Recommendation

There should be established in the Department of Housing and Community Development a new Division of Native American Affairs. The primary function of the new Division would be to:

Coordinate Indian programs at federal, state and local levels.

Support the efforts of tribal, non-profit and private organizations in the field of Indian programs.

"Master plan" the efforts of all organizations to insure maximum effort through minimum duplication.

The Division would have an appointed Chief and staff capability to provide assistance to tribal councils and Indian organizations in such specialties as planning, resource development, community development, management and legislative process.

An advisory committee would be formed consisting of nine members. Representation from land base, rural, and urban Indian organizations would be mandatory. The committee would provide a communication link to exchange needs, coordinate state-federal relationships and to provide input into the legislative process.

State agencies with a responsibility or a program for Indians would present a plan of service for Indian assistance to the committee for review and coordination at the begining of each fiscal year.

A state appropriation will be required in addition to any federal funds available.

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Second Recommendation

The Governor should recommend and the Legislature adopt a policy statement regarding the State's position on Indian Affairs.

Among the policy issues, the following should be included:

Encourage tribal governments to play an increasing role in determining their own future.

Defend the rights of Indians to have and use their natural resources.

Provide health and education services for Indian people fully compatible with those of the general population.

Amend Public Law 280 to clarify ambiguities and to allow resumption of civil and/or criminal jurisdictions by tribes under specified conditions.

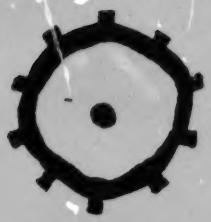
Speed economic and natural resource development to reservations to provide a base from which employment and self sufficiency can be obtained.

Expand rehabilitation programs for youth and adult offenders.

Equal opportunity in employment, training, and business enterprise.

Third Recommendation

A legislative program be formulated to correct inequities and inconsistencies in federal and state statutes. The Division of Native American Affairs could provide the leadership and coordination necessary in this effort.



Fourth Recommendation

Indian units, operating under a legislative mandate, within the Departments of Health and Education be set up as a separate program within the departments and be adequately staffed to perform the functions as intended by the authorizing legislation. These programs should be given the responsibility to recommend legislative action designed to upgrade the program activities of each department.

Fifth Recommendation

State agencies which do not provide direct services should make a concerted effort to disseminate information to the Indian community regarding programs available locally. Emphasis should be in the area of economic and resource development.

Sixth Recommendation

PUBLIC LAW 280

a) The State of California adopt, as an interim measure, a uniform policy dealing with Public Law 280. After soliciting views from each tribe, the State could then establish one "overall" general policy, with limited exceptions, based on the needs of the resident Indian population. This would establish uniform policy on the application of PL 280 for use by all federal and state agencies and local government until legislative changes could become effective.

b) A combined effort should be exerted by the State of California and all California Indian tribes to introduce legislation to clarify and rectify the present ambiguities of Public Law 280. This could be accomplished by elaborating on and expanding Section (b) of Public Law 280. This section should establish the precise parameters of civil jurisdictions. In addition, compatible standards between local governments and Indian tribes should be developed depicting present and future land use policies.

c) Introduce federal legislation to amend the Indian Civil Rights Act of 1968. The amendment could assume the form of the Pettis bill introduced in 1973 (HR 8347).

d) Amend Section 126 of the California Government Code to authorize the State Lands Commission to grant state consent to requests for retrocession. This amendment would permit Indian tribes to submit their requests directly to this Commission which would then have sole authority to retrocede state jurisdiction. A criteria for decisions on retrocession should be developed by the Commission using Indian input.

The above recommendations and supporting material are contained in a study of Public Law 280 prepared by the Department of Housing and Community Development. The study is available under separate cover from the department.

GOVERNMENTAL ORGANIZATION

The Indian communities of California composed of tribal governments recognized by the U. S. Government, groups of Indians formed into non-profit corporations, groups of Indians terminated as a reservation unit but still operating as an organized unit, individual Indians and consortiums of the above groups perform governmental duties of a very diversified nature. The land-based reservation Indian's tribal government has responsibility for programming, developing and administering land containing natural resources held in trust by the U. S. Government, and the full spectrum of socio-economic programs relating to bringing their Indian membership to a level comparative with the greater California society. Similarly, the landless and terminated Indians of California, in their quest to upgrade their socio-economic status participate in local, state and federal programs. Many of these programs are administered by California non-profit corporations governed by Indian Boards of Directors.

In this context the Indian groups must cooperatively plan, program, and contract with local, state, and federal governmental agencies or, as individuals, participate in agency programs on the three levels. This report summarizes:

1. Availability of programs to Indian people from local, state, and federal agencies.

2. Identification of program deficiencies, if they exist.

3. Evaluation procedures utilized to measure the efficiency of meeting program objectives.

4. Recommendations that the State of California implement measures to insure maximum efficiency in Indian program availability, accessibility, and development.

Methodology

To meet the study objectives the following approach was utilized: A questionnaire was submitted to state and federal agencies requesting (1) type of service or program available to Indian groups, (2) method of delivery, (3) amount of funds provided, (4) source of funds, and (5) type of evaluation procedure used to measure the effectiveness of the program.

In instances where the response was delayed, individual contact was made with employees of the agencies to explain the intent of the report and the importance of an accurate and prompt response.

Finally, follow-up visits were made to selected agencies to clarify points that were not clearly reported by the questionnaires.

The previous numbered page in

OVERVIEW

OF

PROGRAM ACTIVITIES

STATE OF CALIFORNIA

The following state governmental agencies either provide direct services via their delivery system or by providing direct funding via contract method for American Indians residing in California:

HEALTH AND WELFARE AGENCY

Department of Benefit Payments

The department has no direct special program for American Indians, however, eligible Indians may participate in categorical aid program including aid to families with dependent children, food stamps, and other programs. It is estimated that Indians represent less than one percent of the department's overall caseload. The department considers the delivery system adequate in fulfilling the objectives of the program.

The following figures are estimated expenditures for American Indians receiving benefits from one of the categorical aid programs which includes Old Age Security (OAS), Aid to the Disabled (ATD), Aid to the Blind (AB), Aid to Families with Dependent Children-Family Group and Unemployed (AFDC-FG and AFDC-U).

Fiscal Year	Estimated Expenditures *
1971-72	$ 11,000,000
1972-73	11,000,000
1973-74	12,000,000

* - Rounded to the nearest millionth

The evaluation of the effectiveness of public assistance for American Indians is not done separately from the overall public program evaluation done by internal quality control and program assessment units.

Special provisions have been made for excluding federal settlements under PL 90-507 to determine eligibility for the above programs.

Department of Health

1. Indian Health Unit - The Department of Health, to carry out their mandate of Section 429.30 and 429.31 of the Health and Safety Code, to establish an operative Indian Health Unit maintains a small Indian Health unit comprised of a public health nurse and a clerk typist. The nurse spends virtually all her time consulting with staff of the "17 rural and 10 urban" Indian Health Projects in California, with special emphasis on training and development. The cost of the program federally financed is $30,000 annually.

2. Family Health Services - The Family Health Services section provides consultation and financial assistance in health program development and evaluation, workshops, and related assistance to urban and rural Indian health programs in California. This support is provided to organized community health programs, regardless of tribal status.

   The delivery mechanism, as described above, is available to other health programs in the state. In addition, the section employs an Indian nurse who provides specialized consultation on nursing services, program development, and training.

   During the last three years the following funds were distributed to various urban and rural health programs (est.):

Funds	1971-72	1972-73	1973-74	Source
Maternal & Child Health	$ 35,000	$ 40,000	$ 65,000	Federal
WIC Program	-	-	200,000	Federal
Family Planning (Title IVA)	-	100,000	150,000	Fed. & Gen.Funds

   The evaluation procedure is by analyses of "progress reports by contractor, field visits, and program statistics."

3. Mental Disability Program - Presently, the department does not include special mental health programs for Indians. However, they have established a position for a specialist who will be working exclusively in the field of mental health regarding Indians.

   The department has issued a position paper emphasizing the need to re-examine the position of the department in view of the alarming statistical facts relating to Native Americans, disproportionate number of arrests, suicides, and other related problems. Hopefully, the specialist will be able to further identify the needs, and coordinatte activities relating to meeting that need.

4. Community Services Section - This department has an outreach mental health program in eastern Humboldt County supporting two staff workers with major emphasis on outreach and alcoholism abuse problems. The budget for this program 1974-75 is $29,439 funded through Social Rehabilitation Service funds.

   Other program activities of this section include a grant of $30,000 to the San Francisco Native American Health Center for assisting migrating Native Americans in their adjustment to urban living from a rural reservation background. Additional programs, funded under the Short-Doyle Act include $10,000 to San Francisco County for counciling with newly arrested Indian drunk cases and adjustment counciling; and $10,000 to Inyo County to support a worker to coordinate mental health activities between the White and Indian communities. Lassen, Siskiyou, San Diego, Imperial, and Los Angeles Counties have received funds for programs similar to San Francisco County.

   It is not clear to what extent the counties involve the Indian community in their programming, nor does there appear to be any evaluation data available at this time.

5. Office on Aging - The California Office on Aging assists various Indian organizations throughout the state in determining needs and in the development of comprehensive social services.

   The staff provides consultant services from headquarters in Sacramento and from field offices in San Francisco and Los Angeles. Additional consultant services are available from staff of the area agencies on aging which, while operating as separate bodies, are funded through the California Office on Aging. These area agencies (local) plan for and work with Indian organizations while surveying needs of individual elderly Indians.

   The major thrust in determining the needs of the elderly Indian has been award of a statewide planning grant under Title III of the Older Americans Act of 1965, as amended, to the Inter-Tribal Council of California. A report from the Council was due in the California Office on Aging in March but has not been received to date. This has hindered assessment of the overall needs of the elderly Indians and the comprehensiveness of the existing programs.

   Under the Title III grant award direct social services in transportation, outreach, information and referral are provided at three multipurpose senior citizen centers

located at Round Valley, Owens Valley, and Santa Rosa. Services are coordinated from a central office/facility which also serves as headquarters for nutrition program funded under Title VII of the Older Americans Act.

Under the Title VII program one hot meal per day is provided for elderly Indians at 16 sites located throughout the state. The contract is administered by the Inter-Tribal Council, Inc. of California. Elderly Indians participating in the nutrition program receive an estimated one-third of the recommended daily allowance of nutrients from the hot meal provided through this program. In addition, participants receive important personal services with the nutrition.

The hot meals and social services are offered at sites located in Santa Rosa, Bishop, Banning, (Morongo Reservation), Escondido (Pala Reservation), Santa Ysabel, Quechan (Winterhaven), Santa Barbara, North Fork, Tollhouse-Auberry, Santa Rosa Rancheria in Kings County, Crescent City (Smith River Reservation), Happy Camp, Ukiah, Lakeport, Susanville, and Sacramento.

At each of the 16 nutrition program sites, elderly Indians are provided with escort, transportation, outreach, information and referral, counseling, recreation, shopping assistance, and nutrition education services.

Managers and cooks at the various sites are allowed a small degree of autonomy under the nutrition program. This pemits for individualizing as much as possible the services provided as well as the kinds of meals and the environment in which they are offered. The project site managers try to provide an atmosphere which will be conducive to inter-action of elderly tribal members. This method allows for delivery of "progressive" ideas in a somewhat conservation atmosphere. The program, however, has not been operative long enough to determine whether or not this is truly the most effective system.

Funds for the California Office on Aging programs of Indian assistance are provided by the Administration on Aging within the U. S. Department of Health, Education and Welfare. Fiscal Year 1973-74 has been the first year of programs under both Title III and Title VII.

Under Title III -	Inter-Tribal Council	$ 59,303
	Round Valley (Covelo)	10,934
	Owens Valley (Bishop)	25,794
	Santa Rosa (Sonoma Indian Health)	33,576
		$129,607
Under Title VII -	Inter-Tribal Council	$400,542
	For a Combined Total of	$530,059

The Evaluations Section of the California Office on Aging is responsible for development of models to be used in evaluating project proposals prior to grant award and in continuing evaluation of effectiveness of the project in meeting needs. Criteria for evaluation are applied equally to all projects funded through the office. On-site visits by Title VII state staff consultants have begun, to assure compliance with nutritional and service guidelines. Because of the vast geographic area served by the Indian program, the project director and state staff consultant involved with the program have frequent telephone conversations. A formal assessment of the progress being made by the nutritional program will be made in August-September with a program evaluation by the Evaluations Section scheduled for December. Reports from project personnel and consultation with state staff provide ongoing evaluation of all programs and projects funded by the California Office on Aging.

6. Health Quality Systems - Has no programs available to Indians.

7. Health Financing System - The Medi-Cal and Crippled Children Services have no specific program for Indians but they may participate, if eligible, in all programs.

Department of Rehabilitation

The Department of Rehabilitation provides vocational rehabilitation services for individuals with physical and/or mental disabilities. Services include diagnostic and related services, counseling, physical restoration, rehabilitation training, placement, etc.

Services are provided on an individual basis by rehabilitation counselors and/or career ladder counseling employees. Each person receives the services needed on a prescription basis. The delivery method is adequate.

We are unable to separate out dollar amounts for programming for any specific groups and/or organizations. Based on certain available information, however, it can be estimated that the Department of Rehabilitation spends approximately $250,000 annually providing services to American Indians. The source of these funds are both General state funds and Federal funds.

The Department of Rehabilitation has a Program Standards Evaluation and Consultation section which has a continuing responsibility to measure the effectiveness of the program.

Employment Development Department

In the past, special efforts to assist Indians have been made, some of which have had to be abandoned because of budget reductions. Among these was a pilot program in the San Jose area in which a representative of the Department was stationed at the Indian Center one afternoon each week.

Several special assistance programs for Indians are continuing. These include:

Eureka - One representative of the Department is out-stationed full time at the Hoopa Reservation. Services offered there include acceptance of work applications, referral of applicants, and recruitment for Job Corps. This out-stationed worker is presently housed in Bureau of Indian Affairs space, but will move to an Employment Development Department trailer unit on July 1.

At that time, services will be increased to include acceptance of claims for unemployment insurance. One additional unit of staff, who was an outreach worker with Indians until about one year ago, is available to assist clients who come to the office in Eureka.

Alturas-Susanville Area - One unit of staff is assigned to work with Indians full time, including reservation visits and working with tribal councils.

Porterville - One unit of staff works full time with Tule Indians in the area, including reservation visits and assisting Indians who come to the employment office.

Perris - Two full time Indian representatives work part of the time on a nearby reservation and part of the time in the office.

Escondido - One full time Indian representative works one day a week on a reservation and the remainder of the time in the employment office.

San Diego Area - One part-time Indian representative works two days a week on a reservation and spends the remainder of the time in the office. He also serves as a consultant to the Kuymmea Tribal Affairs Office.

Two grants funded by the Public Employment Program were made to Inter-Tribal Council of California (ITCC).

$384,021 - from September 1971 through June 1974
$110,766 - from September 1971 through June 1974 (this program ran out of funds in May 1973)

However, services provided Indians are not funded separately from services provided other individuals.

Evaluation is made of programs for Indians on a routine basis to make sure that established goals are being met. Programs for Indians are not separated from overall program evaluation. Various ratios are computed to evaluate activities with consideration of labor market conditions for the area in question.

An excerpt from a report to the federal government showing number of applicants and their disposition is shown below:

Services to Indians	Through May 1974	Fiscal 1973	Fiscal 1972
New applications placed	2,039	2,383	1,519
Individuals placed	1,590	1,889	1,252
Nonagricultural			
Over 3 days	1,412	522	144
Over 150 days	1,006	1,245	996
3 days or less	272	362	217
Agricultural	2,232	616	353
Over 3 days	501	502	295
Over 150 days	53	68	48
3 days or less	112	138	50
Individuals referred to jobs			
Nonagricultural	2,808	3,213	2,892
Agricultural	705	760	640
Placements as a result of job development	183		
Individuals for whom job development attempts were made	306		
Individuals enrolled in training	307	300	466
Individuals given specified tests	274		
Individuals counseled	216	364	

Source: ESAPS Tables

Discussion - Currently the Employment Development Department (EDD) has 12 Indian staff members involved in providing employment service to Indian applicants. A special unit was set up in July 1967, specifically to work with Indian applicants in providing supportive and outreach services, with the intent that the participant would become employable. The Indian staff workers, in this supportive role, often spent time with the applicant developing training opportunities and employer relations job development. However, it is reported that the EDD emphasis "has been redirected toward services that are specifically placement-related."

Further investigation indicated that many of the 12 Indian staff workers work exclusively with placement, both with Indians and non-Indians, and are responsible for maintaining a placement quota. To maintain this quota and professional proficiency, it is assumed that the Indian staff workers cannot spend as much time as necessary to bring an Indian applicant into the employable category.

It appears that EDD has expended very little effort in providing services to Indian people since the "re-emphasis" on placement only. It is unfortunate, since EDD was a forerunner in incorporating Indian employees into the state employees system.

Department of Corrections

The program effort of the Department is a joint effort with the U. S. Bureau of Indian Affairs to promote a rehabilitative service program for Indian offenders "to become self-sufficient upon release from confinement and to equip them with skills, attitudes, and other resources necessary for readjustment into the community." Other activities include designating staff contact persons for liaison duties between Indians in custody and other interested parties.

During the last three years, 190 Indian parolees participated in rehabilitative training programs that were financed and administered by the Bureau of Indian Affairs, while maintaining coordination with the Department of Corrections, at a cost of $186,000.

California Youth Authority

The Department does not provide special direct programs for Indians. They are in the process of formalizing an agreement with the Bureau of Indian Affairs similar to the agreement between the Department of Corrections and the BIA.

BUSINESS AND TRANSPORTATION AGENCY

Department of Housing and Community Development

The Division of Research and Assistance has been involved with Indian Housing Authorities for over three years. An Indian housing authority is a highly specialized and complex organization governed by local Indian people who require a multitude of technical assistance. Much of these services have been provided by this department.

More specifically, organizational technical assistance, plan for construction, scheduling and control have been provided to the Modoc-Lassen Indian Housing Authority. Similar services have been provided to the Hoopa Indian Housing Authority.

Additional coordination activities in regard to Indian housing authorities have been maintained with the Bureau of Indian Affair's Housing Department and Indian Health Service's Environmental Sanitation Division.

During fiscal year 1973-74 the Indian Assistance Program was transferred from the Office of Planning and Research to HCD's Division of Research and Assistance under an inter-agency agreement.

Current program activities include clarification of current and proposed responsibilities of each public agency dealing with Indians; development of a legal handbook for Indians which would describe the responsibilities of federal, state, and local governments; and development of a manual on management of programs and fiscal procedures. Other activities include providing consultation with Indian tribes and organizations on a continuous basis, and acting in the capacity as a liaison between Indian groups and state agencies.

AGRICULTURE AND SERVICES AGENCY

Department of Food and Agriculture

No program activities relating to Indians.

RESOURCES AGENCY

Department of Parks and Recreation

Funds are available to Indian communities to participate in construction projects designed to provide facilities for outdoor recreational activity for the local Indian community.

The major constraint for participating in this program appears to be the fifty percent matching share that the Indian tribe needs as their contribution. These matching funds are not available to Indian groups due to severe economic depressions on the reservations.

The department has indicated their desire to service Indian reservations with their program resources.

CRIMINAL JUSTICE PLANNING

Office of Criminal Justice Planning

Although relatively isolated in the past, the Office of Criminal Justice Planning has become involved in Indian programming by providing funds ($79,847) to the Indian Halfway House of Sacramento, Inc. The following is a project summary:

> THE INDIAN HALFWAY HOUSE OF SACRAMENTO, INC. is a community re-entry program uniquely designed to provide comprehensive assistance to American Indian ex-offenders. Initial contact is made with American Indian Cultural Groups and individuals in California's penal institutions, pertinent information is disseminated to them, and upon request, our field representative methodically assists them toward their eventual release back to society. The first 90 day post release period has proven to be the most difficult. Therefore, our staff will work closely with each individual. This project will provide room and board, professional counseling and guidance, and suitable placement in a community activity. Our "house" will be managed in an authentic Indian atmosphere including Indian-style cooking. Other activities include rap session on drug and alcohol abuse, specialized classes on intercultural exchange and relationship, and simple warmth, sympathy, and friendship.
>
> Our immediate goal is to identify and develop programs for our residents. The fundamental purpose of this project is to help the ex-offender succeed in a society which he once offended. Our efforts will be helping the Indian parolee retain his "freedom" and establish himself in the community as a productive citizen. Our hope is to bridge that gap in communications so that all agencies will not continue to treat American Indian offenders and ex-offenders in an anomalous manner.

OFFICE OF PLANNING AND RESEARCH

Administering the U. S. Housing and Urban Development's (HUD) "Section 701" fund designated for comprehensive community planning, the department has been actively working with Indian tribes for over four years. During this period, the department funded 13 reservations over $419,310 for comprehensive planning programs. The program has operated efficiently and has had a definite(positive)effect on Indian reservation development.

Summary of Funding for Indian Reservation Planning-701

1970-71	Grant	Match	Total
Bishop, Big Pine, Lone Pine	$ 34,969	$ 11,656	$ 46,625
Morongo	55,341	27,671	83,012
	$ 90,310	$ 39,327	$129,637
1971-72			
Hoopa Valley	$ 31,200	$ 10,400	$ 41,600
Round Valley	33,100	11,030	44,130
Fort Bidwell	22,250	7,420	29,670
Tule River	33,450	11,150	44,600
	$120,000	$ 40,000	$160,000
1972-73			
Chemehuevi	$ 42,000	$ 21,000	$ 63,000
Hoopa Valley	28,176	9,392	37,568
Round Valley	3,397	1,133	4,530
Fort Bidwell	10,749	3,583	14,332
Tule River	21,678	7,226	28,904
	$106,000	$ 42,334	$148,334
1973-74			
Chemehuevi	$ 30,000	$ 15,000	$ 45,000
Pala	28,000	9,333	37,333
Viejas, Barona,Capitan Grande	45,000	22,500	67,500
	$103,000	$ 46,833	$149,833

DEPARTMENT OF EDUCATION

The California Department of Education under the direction of Wilson C. Riles, Superintendent of Public Instruction, operates an Indian Unit within the department. Mandated by the Legislature (SB 872, 1970) the Department of Education is required to operate a Bureau of Indian Education staffed by an Indian Coordinator.

Presently, staffed by three consultants, the unit has administrative responsibility for all Indian education programs.

Programs include an Indian Early Childhood Program (SB 1258, 1972) which focus on the needs of Indian children K-4 in ten rural school districts. The amount funded for FY 1973-74 was $331,186. The evaluation process has not been completed for this program.

The unit has also coordinated activities of local school districts in obtaining additional funds from the U. S. Department of Education's Indian Program in the amount of $207,000.

Providing technical assistance and other professional services the unit keeps a busy schedule attempting to service the entire state.

Prior to this fiscal year, the department had contracted with the Bureau of Indian Affairs (BIA) special education program (Johnson-O'Malley Program) and in turn subcontracted to local school districts and assumed responsibility for monitoring the program. Amid charges of excessive high administrative overhead the program was recalled by the BIA.

Finally, the Act authorizing appropriations for the ten pilot projects in Indian education in selected rural areas (SB 1258, 1972) also requires the Superintendent to submit an annual progress report to the Legislature on the project status.

FEDERAL GOVERNMENT

The following is a brief overview of the Federal programming available to California Indians.

Bureau of Indian Affairs (BIA)

The major proportion of the program activity in the state is carried out by the BIA and Indian Health Service. Although limited by budget restraints, the BIA attempts to serve rural California Indians as well as reservation-based Indians. The programs provided for off-reservation Indians are limited to social programs.

Types of Services Provided:

Housing Improvement & Construction
Road Maintenance & Construction
Real Estate Services
Land Management - Irrigation
Commercial & Industrial Development
General Trustee Services
Adult Vocational Training and Adult Education
Forestry Management
Aid to Tribal Governments
Scholarships
Johnson O'Malley Funds
Employment Assistance
Indian Action Teams
Reservation Cleanup

BIA personnel deliver the above services. BIA offices include the Sacramento Area Office, three Agency Offices, a Field Office in Palm Springs, and Employment Assistance Offices in Los Angeles and Alameda. The delivery method is believed adequate.

	FY 1972	FY 1973	FY 1974
Sacramento Area Total Funding (Indian Action Team Funds excluded)	$5,809,800	$9,923,600	$8,721,500

Funds contracted to Indian Groups in California	FY 1972	FY 1973	FY 1974
Reservation Cleanup	0	0	$ 23,000
Employment Assistance:			
Madera Training Center	N/A*	$1,105,000	$ 610,725
San Diego Employment Assistance Office	N/A*	N/A	$ 101,000
Indian Action Teams:			
San Diego County Tribal Chairman Assn.	Feb. 1, 1973 thru Jan. 31, 1974 $330,000		
Wenepem Maidu, Inc.	Feb. 1, 1973 thru Jan. 31, 1974 $220,000		

* Contracted to Non-Indian Organizations

The source of funding is provided by legislative appropriations of the U. S. Congress.

The Planning, Programming and Evaluation system carried out by the Bureau measures the effectiveness of each program by comparing actual anticipated accomplishments with the amount of available funding. In addition, special studies are compiled from time to time on the effectiveness of particular programs.

Indian Health Service (IHS)

Maintaining a small field staff in California the IHS program has been limited mainly to environmental problems relating to water and sewage disposal. This effort has been limited to improving sanitation conditions on the reservations. During the last three years the amount spent included:*

1971 - $1,413,000
1972 - 1,226,000
1973 - 1,097,000

* Note - These figures include other sources of funds from BIA and HUD housing programs.

California Field Office (CFO)

Composed of two professional staff persons and clerical assistance, the CFO has provided technical assistance to the California Rural Indian Health Board health projects on a limited basis. However, it is planned to increase program activities for better health care delivery services currently available to Indian tribes residing in states other than California.

Office of Native American Programs (ONAP)

Formerly with the U. S. Office of Economic Opportunity, the program is now with U. S. Health, Education and Welfare who continue the program effort of Indian community development. The major portion of the funds allocated to California is directed to the Inter-Tribal Council of California with the remainder being allocated to Indian Urban Centers.

The types of programs include:

Community Development
Technical Assistance
Training
Economic Development
Management Systems

Total of projects in California:

1972 - $1,092,600 (ITCC $692,600)
1973 - $1,411,000 (ITCC $934,000)
1974 - $1,477,000 (ITCC $577,000)

Evaluation procedures are in the form of financial audits and in the opinion of the writer does not take into consideration the evaluation of program objectives and performance.

Housing and Urban Development (HUD)

The HUD agencies concentrate exclusively on housing and community development in California, and contracts directly with tribal governments and Indian housing authorities.

At this time there have been 60 homes constructed on Indian reservations in California. The following is a list of projects funded in California and the percent of completion:

Type	Number	Area	Percent Completed
Housing	60	Mission H/A	100
Housing	60	Hoopa	0
Housing	50	Modoc-Lassen	0
Community Center	1	Hoopa Reservation	0
Open Space	1	Hoopa Reservation	0
Tentative Approval:			
Housing	100	Owens Valley	0

Planning - Contracted with State of California. Discussed above.

HUD housing programs are very successful in other reservation areas throughout the United States, but California is nine years behind the rest of the nation in home construction.

Economic Development Administration (EDA)

Operating out of the Seattle Regional Office, the California reservations have participated, until recently, on a minimal basis with EDA which has concentrated on larger reservations in other states. During the last three years, the EDA has funded the following projects:

Type	Area	Percent Completed
Planning	Hoopa Reservation	100
Planning	Bishop Reservation	100
Planning	ITCC Statewide	100
Planning	Pala Reservation	100
Planning	Quechan Reservation	100
Technical Assistance	Statewide Indian Camp	100
Technical Assistance	Hoopa Reservation	100
Community Facilities	Hoopa Reservation	0
Community Facilities	Quechan	100
Community Facilities	Tule River Reservation	100
Community Facilities	Bishop Reservation	100
Shopping Center	Hoopa	0
Campground	Fort Independence	100

The planning programs for California reservations are on a one year basis, which is not conducive to efficient planning.

EDA, except for the Hoopa Shopping Center and Fort Independence Campground, has made minimal inroads to develop the reservations' economic base.

Labor

Labor programs are funded directly to state and local prime sponsors for administration under the revenue sharing process. ITCC has been a prime sponsor for labor programs, but the majority of California Indians will participate on the local level.

Indians of California have participated on a minimal basis in training and other labor programs. Increasing economic development activities within the Indian communities indicates the need will become greater.

The Comprehensive Employment and Training Act of 1973 (CETA) has made special provisions for Indians, however, the rules and regulations are tailored for large reservations, populations, and urban centers. As a result, it is uncertain how the California Indians will benefit from this "Revenue Sharing Approach." In any case it is certain that the amount available will not be sufficient to provide the "catch up" factor so urgently needed to upgrade the employability of California Indians.

Health, Education and Welfare

Office of Education - Under the Indian Education Act Title IV various school districts received funding for FY 1974. Under Section A, school districts with sizable Indian students received $107,715.45. Seventeen schools applied and were funded.

Other funds received were:

DQU	-	$ 250,000
Eastern Shasta Indian Community	-	70,000
Native American Training	-	226,000
Tule River Tribal Council	-	35,000
Stanislaus Chapter - CIEA	-	1,689

David Risling, Jr., was the California Indian representative to the advisory board that selected program participants.

Other HEW programs are funded through state agencies.

Farmers Home Administration (FmHA)

The FmHA, field office for California is located in Woodland, California. Previous services to California Indians have been limited to consultation and in cases provided loans to individual Indians for capital improvements of their farms.

Recent legislation concerning rural communities in the U. S. provide authority for FmHA to consider Indian tribes within their eligible program participants. The following are the four major areas that Indians may participate in FmHA programs:

- Loans to Indian tribes and Indian corporations to acquire land within the reservation for use of the tribe or its members.
- Loans to Indian tribes and Indian corporations for community development construction such as water systems, community facilities, etc.
- Grants to Indian communities and corporations to construct domestic water systems.
- Loans to construct private dwellings on trust Indian land with appropriate lease agreement.

LOCAL GOVERNMENT

Two counties were selected to review their participation in Indian programming. Similar in Indian population and rural-ness, but with geographical separation, Humboldt and Inyo Counties were interviewed.

Humboldt County

Located near the Oregon border in Northwestern California, the Indian population is estimated to be over 6,000. The Indian population living primarily around Humboldt Bay and Eastern Humboldt County consists of landless Indians formed into organizations and three Indian reservations operating tribal governments.

The primary source of funds in the local area is the county government which receives revenue sharing monies from the federal government.

In addition to general services, the county provides, under contract arrangements, revenue sharing funds to Inter-Tribal Council of California (local chapter), Indian Action Council, United Indian Health, Indian Legal Services, and Hoopa Housing Authority.

Under the Special Revenue Sharing (CETA) funds, six positions were provided to similar organizations. Additionally, over $180,000 was provided to the Hoopa Tribe under the Public Employment Program from Humboldt County, the prime sponsor.

The Board of Supervisors are aware of the Indian population needs, but, nevertheless have difficulty with jurisdictional responsibility on the Indian reservations where interpretation of PL 180 is not clearly defined.

Inyo County

Located on the Eastern slopes of the Sierras near the Nevada border in Central California this county has an Indian population of 1,500 similar in proportion to Humboldt County.

Since the administrator was involved in the budget process for the fiscal year he chose to answer the inquiry via telephone. He reported that although the Indians did not receive

INDIAN ORGANIZATIONS

Although there are numerous Indian organizations throughout the State of California, this report only takes into consideration the large organizations which perform duties that relate to delivery of services for Indian people.

California Rural Indian Health Board, Inc. (CRIHB)

The central office of CRIHB is located in Sacramento. Sixteen projects are situated in rural areas from Modoc County in the north, to San Diego County in the south.

Founded as a reservation-based project in 1968, the corporation eventually expanded to include other rural communities with large Indian populations.

The major source of funding for program operations is from the U. S. Department of Health Education and Welfare administered by the Indian Health Service. It should be noted that during the initial phase of operations the State Department of Health was the prime contractor for CRIHB, with responsibilities for monitoring program operations. In 1971, HEW contracted directly with CRIHB for health care delivery. A vigorous effort by the group to seek congressional appropriations to provide direct health care service to California Indians was initiated by CRIHB. The effort was successful in improving the budget to a workable level.

The present function of the 17 CRIHB projects, which are independent corporations,is to provide direct dental and medical services to their clientele,and to develop a systematical approach to take advantage of all health services available on the local levels. In some instances the clinics are in a formative stage, poorly equiped, and in old buildings that cannot pass the necessary specifications to receive a health provider designation by the state. The result is a loss of third party reimbursable funds, e.g., medi-cal, medicare, insurance, etc. Most of the clinics are located in remote rural areas, thereby becoming the only source of available health care.

The funding level for CRIHB was $2,060,000 for FY 1973-74 and is budgeted $2,762,950 for FY 1974-75 from HEW. Additionally, CRIHB has requested $4,273,000 from Congress as an add-on to the President's FY 1975 budget.

direct funds from the county, they were eligible for all services available to the general public. Program effort, however, included planning utility systems for the four reservation areas and assistance in obtaining surplus buildings for the Indian Health Project at Bishop (CRIHB). Education monies were also being channeled to the reservation to be used for special programming.

Discussion - The local funding process appears to be diversified throughout the state. It further appears that the aggressive organized Indian groups participate in local government programs and non-aggressive groups are excluded. This is exemplified by the fact that the Inyo County Indian organizations knew very little about the revenue sharing funds, while the Humboldt Indian organizations actively sought the funds.

California Tribal Chairman's Association (CTCA)

CTCA, a non-profit corporation, has membership confined to elected officials of operative reservation/rancheria tribal governments. The problems faced by this group are unique from other California Indian organizations since much of their emphasis is directed toward development of natural resources of the reservation land.

Operating with a small staff for two years, CTCA has primarily been involved in developing planning systems, better local governmental operations, and budget analysis of various agencies involved with Indian tribes.

The State Department of HCD, through the Indian Assistance Program (701), has funded this organization for $15,000 to develop an operative handbook to be used by Indian tribes for improved financial and program management. Other funding sources utilized for operation of the organization were from the BIA's Reservation Program Development funds.

California Indian Education Association (CIEA)

An association of Indian individuals who have associated to promote education activities for Indians.

Primarily a lobbyist and advocate organization, CIEA has local chapters throughout the state and designed the major portion of the Indian education policy.

Program activities include working closely with DQU and UC Davis Indian Studies Programs. David Risling, an official of the Association, represents California Indians on the National Indian Education Council, which assumes prime responsibility for distribution of funds from the U. S. Department of Education.

Indian Campground, Inc. (ICI)

A Sacramento based organization, ICI was organized for the purpose of providing a mechanism for Indian reservations to become involved in the economic development process, by constructing outdoor recreational facilities on the Indian reservations.

The corporate structure of ICI is unique. ICI is a non-profit corporation operating as a management corporation

CRIHB is in the process of being evaluated by an independent evaluation firm and will receive the results of the evaluation in mid-September, 1974.

Comments - It appears that the 17 CRIHB projects have made remarkable progress, during their short tenure, in their endeavors to provide a health care delivery system for 45,000 rural California Indians. This project has over 100 employees of which 90% are of Indian descent. The governing of the program is wholly conducted by local Indian people.

California Urban Indian Health Council (CUIHC)

A similar type project as CRIHB, the CUIHC has established different priorities to meet the same goals,which is to have health care services available to Indian people.

Located in metropolitan areas of California the nine projects received funding from HEW to conduct a pilot project designed to utilize outside resources.

In their second year of operation, it appears that many of the projects have developed sophisticated methods for obtaining and utilizing available resources.

Serving a population of approximately 100,000 urban-based Indians the project has received $250,000 from HEW during the last two years. An evaluation plan is being formulated.

Inter-Tribal Council of California (ITCC)

Funded as a Community Action Program in the late Sixties, the ITCC is a non-profit California corporation with memberships comprised of Indian reservations and rancherias and Indian organizations of diversified interests.

Funded primarily for community organization by the U. S. Office of Economic Opportunity, ITCC has developed a sophisticated grantsmanship program and now has a variety of programming within their corporate structure.

Amount and type of funding is not available for this report. ITCC reported on their questionnaire that a "detailed breakdown may be requested from the Board of Directors of ITCC." This request has been made to the Board, but without response.

for five Indian tribes that have campgrounds on their reservations. Providing technical, financial, and management assistance to the chain seems to be the primary function of the central ICI. Hoopa, Tule River, Fort Independence, Los Coyotes and Chemehuevi are the member organizations.

Discussion - The formation of Indian tribes into a franchise type of business venture, with the parent company performing the necessary franchising functions, appears to be a valid concept and possibly could be utilized for other ventures such as a chain grocery store, laundromats, etc. This type of operation could cut the cost of duplicating economic feasibility studies, building plans, management plans, ect., thereby providing an opportunity for small reservations to become involved in enterpreneurship.

A LEGISLATIVE HISTORY OF CALIFORNIA INDIANS

On April 9, 1974 in a statement before the Subcommittee on Interior and Related Agencies of the Committee on appropriations, House of Representatives, the California Tribal Chairman's Association identified two issues of historical significance:

> "1. California Indian Treaties were never ratified.
>
> 2. As a direct result of our non-treaty status and with few exceptions, California Indians did not receive the substantial land base promised. History is brutal in recording the circumstances under which limited numbers of tribal remants eventually inherited the miseries of the Rancheria system. Most of these small reservations were to be less than 200 acres and of such poor quality that even the most callous land owners failed to protect their acquisition. The majority of California Indians were less fortunate. For them, there was to be no land base, a condemnation to near total program exclusion."

A prerequisite to establishing a foundation upon which Indian policy in California could be sustained is an examination of a typical treaty signed by tribal leaders on April 29, 1851. (Appendix A).

The April 29, 1851 treaty and 17 others of similar construction were not ratified by the Senate and President of the United States. Why was this allowed to happen? Felix S. Cohen's Handbook of Federal Indian Law states:

> "The discovery of gold in California had caused the migration westward to assume the proportions of a stampede. Soon this newly admitted state was faced with the familiar problem of keeping available for preemption purposes an ample supply of public land. Congress appropriated $25,000 and dispatched commissioners to treat with the California Indians regarding the territory they occupied.
>
> Some 18 treaties with 18 California tribes were negotiated by these federal agents in 1851. All of them provided for a surrender of native holdings in return for small reservations of land elsewhere. Other stipulations made the Indians subject to state law.
>
> When the terms of these various agreements became known the California State Legislature formally protested the granting

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of any lands to the Indians. The reasons for this opposition were reviewed by the President and the Secretary of the Interior, and finally a number of months after the agreements had been negotiated they were submitted to the Senate of the United States for ratification. This was refused on July 8, 1852.

The Indians, however, had already begun performance of their part of the agreement. Urged by government officials to anticipate the approval of the treaties they had started on the journey to the proposed reservations. Now they found themselves in the unfortunate position of having surrendered their homes for lands which were already occupied by settlers and regarding which the Federal Government showed no willingness to take action. This situation was never remedied unless the creation in the 1920's of several small reservations for the use of these Indians can be said to have done so."

The termination of the treaty-making period was pressed by Section 6 of the Act of March 29, 1867, which provided:

". . . And all laws allowing the President, the Secretary of the Interior, or the commissioner of Indian affairs to enter into treaties with any Indian tribes are hereby repealed, and no expense shall hereafter be incurred in negotiating a treaty with any Indian tribe until an appropriation authorizing such expense shall be first made by law."

This provision marked the growing opposition of the House of Representatives to the practical exclusion of that House from control over Indian affairs. The provision in question was repealed a few months later but the House continued its struggle against the Indian treaty system.

When the appropriation bill for the fiscal year 1871 came up in the second session of the Forty-first Congress the fight of the previous year was renewed - the Senate insisting on appropriations for carrying out the new treaties and the House refusing to grant any funds for that purpose. As the end of the session approached it appeared as if the bill would fail entirely, but after the President had called the attention of Congress to the necessity of making the appropriations, the two houses finally reconciled their differences.

The strong fight made by the House and expressions of many members of the Senate made it evident that the treaty system had reached its end, and the Indian appropriation act for the fiscal year 1872, approved on March 3, 1871, contained the following clause, tacked on to a sentence making an appropriation for the Yankton Indians:

> "Provided, That hereafter no Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty: Provided further, That nothing herein contained shall be construed to invalidate or impair the obligation of any treaty heretofore lawfully made and ratified with any such Indian nation or tribe."

California Indians were left with invalid treaties and no legal recourse to compel ratification.

The most important statute of the 1880-1890 era is the General Allotment Act often referred to as the Dawes Act (Appendix B).

The first section authorizes the President to allot tribal lands in designated quantities to reservation Indians. The second section provides that the Indian allottees shall, so far as practicable make their own selections of land so as to embrace improvements already made. Section 3 provides that allotments shall be made by agents, regular or special. Section 4 allows "any Indian not residing upon a reservation, or for whose tribe no reservation has been provided" to secure an allotment upon the public domain.

Section 5 provides that title in trust to allotments shall be held by the United States for 25 years or longer if the President deems an extension desirable. During this trust period, encumbrances or conveyances are void. The General Allotment Act was passed by Congress in 1887 and amended in 1891.

The decade from 1890 through 1930 show no sweeping legislation as important as the earlier statutes. But as the 1930's unfolded, a serious effort was made to right past wrongs.

The decade from 1930 to 1939 is as notable in the history of Indian legislation as that of the 1830's or the 1880's. Through the series of general and permanent laws enacted in the field of Indian affairs during this decade, there runs the motive of righting past wrongs inflicted upon a nearly helpless minority.

An important item of general and permanent legislation was the so-called Johnson-O'Malley Act of April 16, 1934 (Appendix C) authorizing (Section 1) the Secretary of the Interior to enter into contracts with states or territories:

> ". . . for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory, through the qualified agencies of such State or Territory."

The Wheeler-Howard or Indian Reorganization Act was another effort of major impact to remedy old wrongs (Appendix D). An analysis of the workings of this act was published in 1938 under the title "The New Day for the Indians" by a committee of students of Indian Affairs. A few significant observations are worth quoting:

> ". . . these concrete experiences point dramatically to the new world of opportunity that has been opened to all Indian tribes by the development of three cardinal principles of present-day Indian administration: Indian self-government, the conservation of Indian lands and resources, and socially directed credit. On almost every reservation today, even on reservations that voted to reject the Indian Reorganization Act, one finds a deep and growing concern for these basic principles, a conscious striving to secure their application to local problems, the beginnings of constructive achievement, and hope for the future where there was once only hopeless regret for the past."

"What Remains to be Done"

One who seeks to achieve a just appraisal of the record in the field of Indian affairs must conclude that substantial progress has been made in the removal of injustices and anachronisms that have characterized our national Indian policy. The progress achieved is particularly creditable when one realizes the obstacles that were met: the opposition of vested interests, the well-earned suspicion or hostility among the Indians themselves in the face of new promises of better life, the entrenched habits of a civil service trained in disrespect for Indians and Indian ways, and the tremendous inertia which governmental institutions, financial, legal, and procedural, always offer against fundamental reforms.

Taking account of these obstacles and appreciating at their full value the gains achieved, we must nevertheless recognize that the administration of Indian affairs is not yet something of which white Americans can be proud. The achievements of the present policy represent only the beginning of a liberal Indian program.

Progress in the direction of Indian self-government has been striking. Unfortunately this progress remains for the most part in its promissory stages. The vital question is: "Will the promises of self-government embodied in the Indian Reorganization Act and in the tribal constitutions and charters actually be fulfilled or will these promises be treated like so many earlier promises of the United States embodied in solemn treaties with the Indian tribes?"

Already Congress has cut down the appropriations which the Indian Reorganization Act authorized for land purchase, for credit, for loan funds, and for the expenses of tribal organization. Already Congress has shown a disposition to ignore the veto power which it conferred upon organized tribes in the expenditure of tribal funds.

Finally, it is important that the measures of self-government already achieved be regarded as a beginning and an earnest of good faith rather than as a final goal. The organized Indian tribes, in carrying through the program they have begun, will meet situations in which additional powers, legal and financial, are essential to success. They need sympathy and understanding in their struggle to achieve these further powers of self-government.

The problem of land is still the greatest unsolved problem of Indian administration. The condition of allotted lands in heirship status grows more complicated each year. Commissioner Collier supplied the House Appropriations Committee a year ago with examples showing probate and administrative expenditures upon heirship lands totaling costs seventy times the value of the land; and under existing law these costs are destined to increase indefinitely. Responsibility lies with Congress and the administration to work out a practical solution to this problem, either in terms of corporate ownership of lands, or through some modification of the existing inheritance system.

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The early 1950's produced a concerted effort to terminate the federal relationship with Indians nationwide, and in particular, California. Several pieces of significant legislation were being considered in Congress prompted by legislative studies. The following observations are included in Theodore W. Taylor's report "The States and Their Indian Citizens" published in 1952:

"HOUSE REPORT NO. 2503, 1952

House Resolution 698, which passed the House on July 1, 1952, provided for an investigation of the Bureau of Indian Affairs. The Committee was to submit a report including, among other things; (1) a list of groups of Indians qualified to manage their own affairs; (2) "...legislative proposals designed to promote the earliest practicable termination of all Federal supervision and control over Indians..."; (3) "...a listing of functions now carried on by the Bureau of Indian Affairs which may be discontinued or transferred to other agencies of

the Federal Government or to the States..." (4) "...names of States where further operation of the Bureau of Indian Affairs should be discontinued ..." and (5) "...recommended legislation for removal of legal disability of Indians by reason of guardianship by the Federal Government ..."

The Committee asked the Bureau to report on the above items, and Commissioner Dillon S. Myer sent a comprehensive questionnaire to the field (August 5, 1952) in which he stated that Congressional actions indicate "...future appropriations will be limited largely to financing items which will facilitate withdrawal." He concluded it was necessary to help Indians "...become better qualified to manage their own affairs."

In his report to the Committee (December 3, 1952), the Commissioner indicated the complexity of terminal actions, and that it was "extremely difficult to make a flat statement on which tribes ...are now qualified for full management of their own affairs."

He listed the problems of outstanding treaty claims, surplus population on reservations, heirship land problem, need for establishing corporations to manage Indian resources, Congressional determination needed as to whether the Federal Government would subsidize States for health and educational services, and the need for investments to develop Indian resources.

Concerning States where further operation of BIA could be discontinued, the Commissioner indicated the Bureau had been working with the Indians and the States of California, Michigan, and Kansas.

The Commissioner's Report also included tables presenting information on the population, education, income, degree of blood, assets, taxable value of trust land, Bureau expenditures, and the like, by tribes and States.

The House Committee stated that all Indian legislation should be directed toward the end of the trust status ("not acceptable to our American way of life"), and "the assumption by individual Indians of all the duties, obligations, and privileges of free citizens" to the end that "the Indians be assimilated into the Nation's social and economic life."

The House Committee on Interior and Insular Affairs appointed a Special Subcommittee on Indian Affairs pursuant to H.Res.89 of the 83rd Congress, March 25, 1953. This subcommittee recommended discontinuance of the operation of the BIA in California, Michigan, Nebraska, South Carolina, Texas, and Wyoming. The Committee said this could be accomplished by transfer of functions to the Indians themselves, to the States, or to other Federal agencies.

The transfer of all BIA educational, law and order, and roads activities in all States to the States was recomended.

Other BIA functions, the Committee believed, should be transferred to the Indians themselves or other appropriate Federal agencies.

DEPARTMENT OF INTERIOR POLICY POSITION

Starting in 1928 with the Meriam Report, the Department moved progressively toward adoption of withdrawal of trusteeship as an objective but not through the allotment procedure. The Meriam Report stated that it was "...highly desirable that the states should as rapidly as possible assume responsibility for the administration of activities which they can effectively perform alike for whites and for the Indians with a single organization ..." But the report indicated that transfer should be function by function and not necessarily occur at the same time in the various States as each situation was unique. Further, the Federal Government should carry its responsibility until the Indians and the States were ready for the change.

The two long-range objectives of the Bureau of Indian Affairs, as stated by Commissioner Dillon S. Myer in 1951, were:

(1) A standard of living for Indians comparable with that enjoyed by other segments of the population, and (2) the step-by-step transfer of Bureau functions to the Indians themselves or to the appropriate agencies of local, State or Federal Government.

In 1952, the Commissioner of Indian Affairs started off his Annual Report with the following statement:

"Greatly increased emphasis on the ultimate transfer of Indian Bureau function either to the Indians themselves or to appropriate State and local agencies was reflected during the fiscal year 1952 in almost every phase of the program of the Bureau of Indian Affairs."

In early 1953, Assistant Secretary of the Interior Orme Lewis, met with the Chairmen of the House and Senate Indian Affairs Subcommittees, and subsequently with the Secretary of the Interior Douglas McKay on Indian policy.

On March 13, 1953, the Assistant Secretary stated Interior's policy in a letter to the Senate and House Subcommittees, which put the Executive arm of the Government flatly on record as follows:

"Federal responsibility for administering the affairs of individual Indian tribes should be terminated as rapidly as the circumstances of each tribe will permit. This should be accomplished by arrangement with the proper public bodies of the

> political subdivisions and by distribution of tribal assets to the tribes as a unit or by division of tribal assets among the individual members, whichever may appear to be the better plan in each case. In addition, responsibility for trust properties should be transferred to the Indians themselves, either as groups or individuals, as soon as feasible."

In 1953, the California Legislature expressed its feelings in two resolutions, SJR 29 and AJR 38. The Senate Resolution (Appendix E) supported the concept of civil and criminal jurisdiction to be assumed by the state over Indian country and to facilitate the termination of federal supervision over Indian affairs in California. The Assembly Resolution (Appendix F) expressed the same concern with one added feature:

> "The State of California is able to provide for the well-being of American Indians, as it does for other citizens, by laws of general applicability..."

Each of these resolutions memorialized Congress to terminate federal control over California Indians.

A Senate report on HR 1063 (Appendix G) which later was to become Public Law 280 included statements from the Bureau of Indian Affairs relating to support from California. The record clearly shows this to be the intent of the California Legislature.

The Senate report also names four other states desiring to assume civil and criminal jurisdiction over Indians. There was widespread support for the proposed legislation and little effective organized opposition. The result was passage of Public Law 83-280 (Appendix H). From that day forward a landmark in Indian judicial and legislative history was established. Courts are filled with cases over the intent of Public Law 280. Appeals Courts are still to this day writing varying decisions and nothing has been resolved with finality except to confuse what was on the surface a simple piece of legislation confering powers to several states over Indian affairs.

In 1954 the State of California realized the import of Public Law 280. SJR 4 (Appendix I) was passed in April of that year to express the state's reversal of a previous position regarding federal control over Indians. The damage was already done. Laws are easily passed but retrocession is almost impossible. The policy of Indian termination continued with passage of Public Law 83-671 "Rancheria Act" and amendments in August 1964 (Appendix J).

Provisions were included whereby a tribe could request termination after a vote by a majority of the members. The process sounds very democratic and certainly allows for independence of choice. However, the decision to terminate would be based in part upon a directive contained in the legislation that before conveyances of land title would be made the following items must be accomplished.

1. Complete survey for marketable title.

2. Complete improvements required to bring roads up to state standards.

3. Domestic water and sanitation services and irrigation facilities be provided.

In most cases, none of items 2 or 3 were accomplished, but termination continued. There are now many parcels of terminated land with inadequate or absence of roads, water, and sanitation (see recommendation State Advisory Commission Appendix M). Indian Health Service is now making an effort to correct deficiencies, but the problem is overwhelming in terms of work required and funding available.

In 1964, Public Law 90-284 the "Indian Bill of Rights" was passed by Congress (Appendix K). In the body of the legislation is a provision that civil and criminal jurisdictions can be retroceded to the federal government by request of the state (Section 403). To this date, the state has not considered nor requested retrocession of Public Law 280.

Recent attempts to provide a mechanism for partial retrocession are characterized by HR 8347 authored by Representative Pettis (Appendix L). This landmark legislation will allow after a majority tribal vote total withdrawal from state control without the necessity of obtaining prior consent of the state or as an alternative limited withdrawal providing the state concurs. The United States Government would be authorized to resume jurisdiction. Discussions are now continuing to determine if this is the "ideal" legislative answer to Public Law 280 or are amendments necessary to make it workable.

SUMMARY

The deceptions of the 1800's, the promises of the early 1900's, and indecision of the 1950's characterize the legislative history of California Indians.

Only recently have serious attempts been made at the state level to understand a complex series of interrelated problems.

Beginning with the State Advisory Commission in the 1960's and establishment of the Indian Assistance Program in 1970, identifiable progress has been made in the field of Indian affairs.

There is still more to be done --
There are questions unanswered --
Problems unresolved --
And Indians in need of our support to achieve self-determination.

APPENDIX

A. Treaty of April 29, 1851

B. General Allotment Act of 1887

C. Johnson O'Malley Act of 1934

D. Indian Reorganization Act of 1934

E. Senate Joint Resolution No. 29 - 1953

F. Assembly Joint Resolution No. 38 - 1953

G. Senate Report No. 699 - 1953

H. Public Law 830280 - 1953

I. Senate Joint Resolution No. 4 - 1954

J. Rancheria Act as amended - 1964

K. Indian Bill of Rights - 1968

L. House Bill HR 8347 - 1973

M. Recommendations (Rural)
State Advisory Commission - 1970

N. Recommendations (Urban)
State Advisory Commission - 1970

O. Statement of the California Tribal
Chairman's Association

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TREATY OF APRIL 29, 1851

"Made and concluded at Camp Barbour, on the San Joaquin River, California, between Radick McKee, George W. Barbour, and O.M. Wozencraft, commissioners thereto especially appointed on the part of the United States, and the under-signed chiefs, captains, and headman of the tribes or bands of Indians now in council at this camp, known as the Howachees, Chookchances, Chowchillas, Pohoneeches, and Nookchoos, which five tribes or bands acknowledge Naiyakqua as their principal chief; also the Pitoatchees, Cansons, Toomnas, Tallinches, and Poskesas, which five tribes or bands acknowledge Tonquit as their principal chief; also the Wachaets, Itachees, Choenemnees, Chokimenas, Wewahches, and Notomotos, which six tribes or bands acknowledge Pasqual as their principal chief.

"Art. I—The said tribes or bands acknowledge themselves jointly and severally under the exclusive jurisdiction, authority, and protection of the United States, and hereby bind themselves to refrain hereafter from the commission of all crimes of hostility or aggression toward the government or citizens thereof, and to live on terms of peace and friendship among themselves and all other Indian tribes which are now or may hereafter come under the protection of the United States.

"Art. II--Lest the peace and friendship hereby established between the United States and the said tribes should be interrupted by the misconduct of individuals, it is expressly agreed that for injuries on either side no private revenge or retaliation shall take place or be attempted; that instead thereof complaint shall be made by the party aggrived to the other, through the Indian agent of the United States in their district, whose duty it shall be to investigate, and if practicable, to adjust the difficulties; or in cases of acts of violence being committed upon the person or property of a citizen of the United States, by an Indian or Indians, belonging to, or harbored by, either of said tribes or bands, the party or parties charged with commission of said crimes shall be promptly delivered up to the civil authorities of the State of California for trial; and in case the crime has been committed by a citizen or citizens of the United States upon the person or property of an Indian or Indians of either of said tribes; the agent shall take all proper measures to bring the offender or offenders to trial in the same way.

"Art. III--The said tribes or bands hereby jointly and severally relinquish and forever quit claim to the United States all the right, title, claim, or interest of any kind, they or either of them have, or ever had, to lands or soil in California.

"Art. IV--To promote the improvement of said tribes or bands, it is hereby stipulated and agreed that the following district of the country in the State of California shall be and is hereby set apart forever for the sole use and occupancy of the aforesaid tribes of Indians, to wit:

"Beginning at a point in the middle of the Chowchilla River, near an old Indian rancheria called Tahaleel, and immediately at the junction of the first two main forks of said river, in the foothills, running thence in a straight line in a southwesterly direction to the top of the point of the Table Mountain on the San Joaquin River, being the first high hill or mountain above and adjoining the valley in which the camp known as Camp Barbour is established, on the south side of the San Joaquin River; continuing thence in a straight line in the same southwesterly direction to the eastern base of what is known as the Line or Lost Mountain, on the south side of Kings River; continuing thence in a line in the same direction to the middle of the Conier River, generally known as the first of the Four Creeks; thence down the middle of said stream to a point fifteen miles distant, in a straight line from where the first line strikes it; thence back to the middle of the Chowchilla River, to a point fifteen miles distant in a straight line from the starting point as aforesaid, on said river, the said line from the Conier River, on the first of the Four Creeks.

"Art. V--To aid the said tribes or bands in their subsistence while removing to, and making their settlement on said reservation, the United States, in addition to the numerous and valuable presents made to them at this council, will furnish them free of charge, 500 head of beef cattle, to average in weight 500 pounds, and 260 sacks of flour, 100 pounds each, during each of the years 1851 and 1852, to be divided among them by the agent, according to their respective numbers.

"Art. VI--As early as convenient, after the ratification of this treaty by the President and Senate, in consideration of the promises, and with a sincere desire to encourage said tribes in acquiring the arts and habits of civilized life the United States will also furnish them with the following articles to be divided among them by the agent according to their respective numbers and wants, during each of the two years succeeding the said ratification, viz:

"Two pairs strong panteloons and two red flannel shirts for each man and boy; one linsey gown for each woman and girl; 3,000 yards calico and 3,000 yards brown sheating; thirty pounds Scotch thread; six dozen pairs scissors, assorted; 1 gross thimbles and 5 needles, assorted; one 2½ pair Mackinaw blanket for each man and woman over 15 years of age; 3,000 pounds iron and 800 pounds steel. And in like manner in the first year for the permanent use of said tribes and at their joint property, viz: 75 brood mares and 3 stallions; 150 milk cows and 3 bulls; 12 yoke work cattle with yokes, chains, etc.; 12 work mules and horses; 30 plows (10 large and 20 small); 30 sets plow harness for horses or mules; seeds of all proper kinds for planting and sowing; 100 chopping axes; 100 hatchets, 300 mattocks or picks; 300 garden or corn hoes; 100 spades; 15 grindstones; 3 United States Flags (one for each principal chief).

"The stock enumerated above and the product thereof shall be marked or branded with such letters as will at all times designate the same to be the prpperty of the said tribes, and no part or portion thereof shall be killed, exchanged, or sold, or otherwise parted with, without the consent and direction of the agent.

"Art. VII--The United States will also employ and settle among said tribes, at or near their town or settlement, one practical farmer, who shall act as superintendent, or director of agricultural operations, to reside at some central point and to have two assistants, also of practical knowledge and industrious habits; one carpenter, or worker in wood, to direct and aid in construction of houses, repairing floors, etc., one blacksmith, to reside at some central point; three principal school teachers, and as many assistant teachers as the President shall deem proper, to instruct said tribes in reading, writing, etc., and in the domestic arts of sewing, housekeeping, etc., and in the manual labor system; all the above named workmen and teachers to be maintained and paid by the United States, for the period of five years and as long thereafter as the President may deem advisable; the United States will erect suitable schoolhouses, shops, and dwellings for the accommodation of the school teachers and mechanics above specified, and for the protection of public property.

"These articles are to be binding on the contracting parties when ratified and confirmed by the President and Senate of the United States.

In testimony whereof the parties hereunto have signed their names and fixed their seals this 29th day of April, Anno Domini 1851.

"Signed and sealed and delivered, after being fully explained in the presence of,

John McKee, Secretary
John Hamilton, Interpreter
Adam Johnston, Agent
E.D. Keys, Capt., 3d Art'y, Escort
W.S. King, Ass't Surg. U.S.A.
L.H. Landram, Lieut. 3rd Art'y
H.J. G. Gigson, 2nd Lieut., 3d Art'y
N.H.M. Lean, Lieut. 2nd Inf't
T.H.A. Mars

Signed, Redick McKee, G.W. Barbour, C.M. Wozencraft
For and in behalf of the Howschais:
Nai-yak-qua, No-cheel, Chal-wak-chee, Por-sa-, Po-qui
For and in behalf of the Choock chancey:
Co-tum-si, Tim-oh, Sa-wa-lui, A-chat-awa, Mi-e-wal
For and behalf of the Pohoneeches:
Po-tol, Chee-ko, Mooch-ca-te, Ho-has-see, Cow-wal

For and in behalf of the Nookchoos:
Pan-wa-ch-ee, Ket-ta, Mullu-ee, Taw-wich, Wal-lin
For and in behalf of the Pitcachees:
Tom-quit, Ya-ko-wal, Too-tro-mi, Cho-lul, Ne-sa-plo
For and in behalf of the Capoos:
Dominquez Perez, Tom-mas, Jose Antonio
For and in behalf of the Toomaneh:
Hat-chu-too, Tap-pa, Po-sha
For and in behalf of the Tallinchy:
Cho-kate, Pal-lo-koosh, How-il-me-na, So-guch
For and in behalf of the Posksees:
Ke-shiah, Ko-itch, Cop-pi, Wo-wal
For and in behalf of the Wachahets: Pasqual, Wa-keen, Jose Antonio
For and in behalf of the Itaches: Wa-too, A-por-trai, To-hai-chee
For and in behalf of the Choenemnes: Wau-toi-ki, Ho-let-tea, Ta-ween
For and in behalf of the Chokimenas: Ko-heel, Tra-ta-it-se, Woh-ton
For and in behalf of the Notohotos: Pasqual
For and in behalf of the Narmelches: Pasqual

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FORTY-NINTH CONGRESS
SESSION II - 1887

GENERAL ALLOTMENT ACT

CHAP.119. - An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes. Feb. 8, 1887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an act of Congress or executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized whenever in his opinion any reservation or any part thereof of such Indians is advantageous for agricultural and grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed if necessary, and to allot the lands in said reservation in severalty to any Indian located thereon in quantities as follows: *President authorized to allot land in severalty to Indians on reservations.*

To each head of a family, one quarter of a section; *Distribution*

To each single person over eighteen years of age, one-eighth of a section;

To each orphan child under eighteen years of age, one-eighth of a section; and

To each other single person under eighteen years now living, or who may be born prior to the date of the order of the President directing an allotment of the lands embraced in any reservation, one-sixteenth of a section: *Provided,* That in case there is not sufficient land in any of said reservations to allot lands to each individual of the classes above named in quantities as above provided, the lands embraced in such reservation or reservations shall be allotted to each individual of each of said classes pro rata in accordance with the provisions of this act: *Provisos. Allotment pro rata if lands insufficient.* *And provided further,* That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty in quantities in excess of those herein provided, the President, in making allotments upon such reservation, shall allot the lands to each individual Indian belonging thereon in quantity as specified in such treaty or act: *Allotment by treaty or act not reduced.* *And provided further,* That when the lands allotted are only valuable for grazing purposes, an additional allotment of such grazing lands, in quantities as above provided, shall be made to each individual. *Additional allotment of lands fit for grazing only.*

Sec. 2. That all allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: *Provided*, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe, or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which election shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner.

Selection of allotments.

Improvements.

Proviso: On failure to select in four years, Secty. of the Interior may direct selection.

Sec. 3. That the allotments provided for in this act shall be made by special agents appointed by the President for such purpose, and the agents in charge of the respective reservations on which the allotments are directed to be made, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and to be deposited in the General Land Office.

Allotments to be made by special agents and Indian agents.

Certificates.

Sec. 4. That where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands, the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

Indians not on reservations, etc., may make selection of public lands.

Fees to be paid from the Treasury.

Sec. 5. That upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the anme of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or in case of his decease, of his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever: *Provided*, That the President of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and alloted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: *Provided*, That the law of descent and partition in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: *And provided further*, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the form and manner of executing such release shall also be prescribed by Congress: *Provided however*, That all lands adapted to agriculture, with or without irrigation so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: *And provided further*, That no patents shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years occupancy thereof as such homestead; and any conveyance of said lands so taken as a homestead, or any contract touching

Patent to issue.

To be held in trust.

Conveyance in fee after 25 years.

Provisos. Period may be extended.

Laws of descent and partition.

Negotiations for purchase of lands not allotted.

Lands so bought to be held for actual settlers if arable.

Patent to issue only to person taking as homestead.

the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the Treasury of the United States for the sole use of the tribe or tribes of Indians; to whom such reservations belonged; and the same, with interest thereon at three per cent per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the Secretary of the Interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employes in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred.

Purchase money to be held in trust for Indians.

Religious organizations.

Indians select lands to be preferred for police, etc.

Sec. 6. That upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. And every Indian born within the territorial limits of the United States to whom allotments shall have been made under the provisions of this act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up, within said limits, his residence separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not by birth or otherwise, a member of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property.

Citizenship to be accorded to allottees and Indians adopting civilized life.

Sec. 7. That in cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor.

Secretary of the Interior to prescribe rules for use of waters for irrigation.

Sec. 8, That the provision of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miamies and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order.

Lands excepted.

Sec. 9. That for the purpose of making the surveys and resurveys mentioned in section two of this act, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, to be repaid proportionately out of the proceeds of the sales of such land as may be acquired from the Indians under the provisions of this act.

Appropriation for surveys.

Sec.10. That nothing in this act contained shall be so construed as to affect the right and power of Congress to grant the right of way through any lands granted to an Indian, or a tribe of Indians, for railroads or other highways, or telegraph lines, for the public use, or to condemn such lands to public uses, upon making just compensation.

Rights of way not affected.

Sec.11. That nothing in this act shall be so construed as to prevent the removal of the Southern Ute Indians from their present reservation in Southwestern Colorado to a new reservation by and with the consent of a majority of the adult male members of said tribe.

Southern Utes may be removed to new reservation.

Approved, February 8, 1887.

FIFTY-FIRST CONGRESS
SESSION II - 1891

AMENDMENTS TO GENERAL ALLOTMENT ACT

CHAP. 383. - An act to amend and further extend the benefits of the act approved February eighth, eighteen hundred and eighty-seven, entitled "An act to provide for the allotment of land in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States over the Indians, and for other purposes." February 28,18

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one of the act entitled "An act to provide for the allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," approved February eighth, eighteen hundred and eighty-seven, be, and the same is hereby, amended so as to read as follows:

Allotment of land in severalty to Indians on Indian reservations, etc. Vol.24,p.388, amended.

Sec. 1. That in all cases where any tribe or band of Indians has been, or shall hereafter be, located upon any reservation created for their use, either by treaty stipulation or by virtue of an Act of Congress or Executive order setting apart the same for their use, the President of the United States be, and he hereby is, authorized, whenever in his opinion any reservation, or any part thereof, of such Indians is advantageous for agricultural or grazing purposes, to cause said reservation, or any part thereof, to be surveyed, or resurveyed, if necessary, and to allot to each Indian located thereon one eighth of a section of land: *Provided,* That in case there is not sufficient land in any of said reservations to allot lands to each individual in quantity as above provided the land in such reservation or reservations shall be allotted to each individual pro rata, as near as may be, according to legal subdivisions: *Provided further,* That where the treaty or act of Congress setting apart such reservation provides for the allotment of lands in severalty to certain classes in quantity in excess of that herein provided the President, in making allotments upon such reservation, shall allot the land to each individual Indian of said classes belonging thereon in quantity as specified in such treaty or act, and to other Indians belonging thereon in quantity as herein provided: *Provided further,* That where existing agreements or laws provide for allotments in accordance with the provisions of said act of February eighth, eighteen hundred and eighty-seven, or in quantities substantially as therein provided, allotments may be made in quantity as specified in this act, with the consent of the Indians, expressed in such manner as the President, in his discretion, may require: *And provided further,* That when the lands allotted, or any legal subdivision thereof, are only valuable for grazing purposes, such lands shall be allotted in double quantities."

To each locate Indian one-eighth of a section.

Provisos.

Allotment pro rata, if lands insufficient, per legal subdivisions.

Allotment by treaty or act, not reduced.

To other India

Under existing agreements or laws. Vol.24, p.388

Double allotments of lands fit for grazing only.

Sec. 2. That where allotments have been made in whole or in part upon any reservation under the provisions of said act of February eighth, eighteen hundred and eighty-seven, and the quantity of land in such reservation is sufficient to give each member of the tribe eighty acres, such allotments shall be revised and equalized under the provisions of this act: *Provided*, That no allotment heretofore approved by the Secretary of the Interior shall be reduced in quantity.

Existing allotments in certain cases to be augmented.

No existing approved allotments to be reduced.

Sec. 3. That whenever it shall be made to appear to the Secretary of the Interior that, by reason of age or other disability, any allottee under the provisions of said act, or any other act or treaty can not personnally and with benefit to himself occupy or improve his allotment or any part thereof the same may be leased upon such terms, regulations and conditions as shall be prescribed by such Secretary, for a term not exceeding three years for farming or grazing, or ten years for mining purposes: *Provided*, That where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the Council speaking for such Indians, for a period not to exceed five years for grazing, or ten years for mining purposes in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior.

Leases, by Secretary of Interior of existing allotments where allottee disabled fr occupancy, etc.

Terms, etc.

Proviso.

Leases, by India agent, of certai lands occupied by Indian purchasers.

Terms, etc.

Sec. 4. That where any Indian entitled to allotment under existing laws shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office for the district in which the lands are located, to have the same allotted to him or her and to his or her children, in quantities and manner as provided in the foregoing section of this amending act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions provided in the act to which this is an amendment. And the fees to which the officers of such local land office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.

Certain Indians may make selection of public lands

Patents to issu

Vol.24, p 389

Fees to be paid from the Treasury.

Sec. 5. That for the purpose of determining the descent of land to the heirs of any deceased Indian under the provisions of the fifth section of said act, whenever any male and female Indian shall have co-habited together as husband and wife

Determination o descent, etc.

Vol.24, p.389

according to the custom and manner of Indian life the issue of such co-habitation shall be, for the purpose aforesaid, taken and deemed tc be the legitimate issue of the Indians so living together, and every Indian child, otherwise illegitimate, shall for the purpose be taken and deemed to be the legitimate issue of the father of such child: *Provided*, That the provisions of this act shall not be held or construed as to apply to the lands commonly called and known as the "Cherokee Outlet": *And provided further*, That no allotment of lands shall be made or annuities of money paid to any of the Sac and Fox of the Missouri Indians who were not enrolled as members of said tribe on January first, eighteen hundred and ninety; but this shall not be held to impair or otherwise affect the rights or equities of any person whose claim to membership in said tribe is now pending and being investigated.

Approved, February 28, 1891.

Provisos.

"Cherokee Outlet" lands excepted.

Certain Sacs and Foxes excepted.

Pending rights etc., unimpaired.

25 UNITED STATES CODE § 452

JOHNSON O'MALLEY ACT PROVISIONS

Contracts for education, medical attention, relief and social welfare of Indians

The Secretary of the Interior is authorized, in his discretion, to enter into a contract or contracts with any State or Territory, or political subdivision thereof, or with any State univertiy, college, or school, or with any appropriate State or private corporation, agency, or institution, for the education, medical attention, agricultural assistance, and social welfare, including relief of distress of Indians in such State or Territory, through the agencies of the State or Territory or of the corporations and organizations hereinbefore named, and to expend under such contract or contracts, moneys appropriated by Congress for the education, medical attention, agricultural assistance, and social welfare, including relief of distress, of Indians in such State or Territory. Apr.16,1934, c.147, § 1, 48 Stat. 596; June 4, 1936, c.490, 49 Stat. 1458.

Historical Note

1936 Amendment. Act June 4, 1936 substituted "with any State or Territory, or political subdivision thereof, or with any State university, college, or school, or with any appropriate State or private corporation, agency, or institution", "through the agencies of the State or Territory or of the corporations and organizations hereinbefore named,", and "such State or Territory" for "any State or Territory having legal authority so to do,", "through the qualified agencies of such State or Territory,", and "such State", respectively.

INDIAN REORGANIZATION ACT OF 1934

PUBLIC LAW 73-383

(CHAPTER 576.)

AN ACT

To conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter no land of any Indian reservation, created or set apart by treaty or agreement with the Indians, Act of Congress, Executive order, purchase, or otherwise, shall be allotted in severalty to any Indian.

Sec. 2. The existing periods of trust placed upon any Indian lands and any restriction on alienation thereof are hereby extended and continued until otherwise directed by Congress.

Sec. 3. The Secretary of the Interior, if he shall find it to be in the public interest, is hereby authorized to restore to tribal ownership the remaining surplus lands of any Indian reservation heretofore opened, or authorized to be opened, to sale, or any other form of disposal by Presidential proclamation, or by any of the public land laws of the United States: *Provided, however,* That valid rights or claims of any persons to any lands so withdrawn existing on the date of the withdrawal shall not be affected by this Act: *Provided, further,* That this section shall not apply to lands within any reclamation project heretofore authorized in any Indian reservation: *Provided further,* That the order of the Department of the Interior signed, dated, and approved by Honorable Ray Lyman Wilbur, as Secretary of the Interior, on October 28, 1932, temporarily withdrawing lands of the Papago Indian Reservation in Arizona from all forms of mineral entry or claim under the public land mining laws, is hereby revoked, and rescinded, and the lands of the said Papago Indian Reservation are hereby restored to exploration and location, under the existing mining laws of the United States, in accordance with the express terms and provisions declared and set forth in the Executive orders establishing said Papago Indian Reservation: *Provided further,* That damages shall be paid to the Papago Tribe for loss of any improvements on any land located for mining in such a sum as may be determined by the Secretary of the Interior but not to exceed the cost of said improvements: *Provided further,* That a yearly rental not to exceed five cents per acre shall be paid to the Papago Tribe for loss of the use or occupancy of any land withdrawn by the requirements of mining operations, and payments derived from damages or rentals shall be deposited in the Treasury of the United States to the credit of the Papago Tribe: *Provided further,* That in the event any person or

persons, partnership, corporation, or association, desires a mineral patent, according to the mining laws of the United States, he or they shall first deposit in the Treasury of the United States to the credit of the Papago Tribe the sum of $1.00 per acre in lieu of annual rental, as hereinbefore provided, to compensate for the loss or occupancy of the lands withdrawn by the requirements of mining operations: *Provided further,* That patentee shall also pay into the Treasury of the United States to the credit of the Papago Tribe damages for the loss of improvements not heretofore paid in such a sum as may be determined by the Secretary of the Interior, but not to exceed the cost thereof; the payments of $1.00 per acre for surface use to be refunded to patentee in the event that patent is not acquired.

Nothing herein contained shall restrict the granting or use of permits for easements or rights-of-way; or ingress or egress over the lands for all proper and lawful purposes; and nothing contained herein, except as expressly provided, shall be construed as authority for the Secretary of the Interior, or any other person, to issue or promulgate a rule or regulation in conflict with the Executive order of February 1, 1917, creating the Papago Indian Reservation in Arizona or the Act of February 21, 1931 (46 Stat. 1202).

Sec. 4. Except as herein provided, no sale, devise, gift, exchange or other transfer of restricted Indian lands or of shares in the assets of any Indian tribe or corporation organized hereunder, shall be made or approved: *Provided, however,* That such lands or interests may, with the approval of the Secretary of the Interior, be sold, devised, or otherwise transferred to the Indian tribe in which the lands or shares are located or from which the shares were derived or to a successor corporation; and in all instances such lands or interests shall descend or be devised, in accordance with the then existing laws of the State, or Federal laws where applicable, in which said lands are located or in which the subject matter of the corporation is located, to any member of such tribe or of such corporation or any heirs of such member: *Provided further,* That the Secretary of the Interior may authorize voluntary exchanges of lands of equal value and the voluntary exchange of shares of equal value whenever such exchange, in his judgment, is expedient and beneficial for or compatible with the proper consolidation of Indian lands and for the benefit of cooperative organizations.

Sec. 5. The Secretary of the Interior is hereby authorized in his discretion, to acquire through purchase, relinquishment, gift, exchange, or assignment, any interest in lands, water rights or surface rights to lands, within or without existing reservations, including trust or otherwise restricted allotments whether the allottee be living or deceased, for the purpose of providing land for Indians.

For the acquisition of such lands, interests in lands, water rights, and surface rights, and for expenses incident to such acquisition, there is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, a sum not to exceed $2,000,000 in any one fiscal year: *Provided,* That no part of such funds shall be used to acquire additional land outside of the exterior boundaries of Navajo Indian Reservation for the Navajo Indians in Arizona and New Mexico, in the event that the proposed Navajo boundary extension measures now

pending in Congress and embodied in the bills (S.2499 and H.R. 8927) to define the exterior boundaries of the Navajo Indian Reservation in Arizona, and for other purposes, and the bills (S.2531 and H.R. 8982) to define the exterior boundaries of the Navajo Indian Reservation in New Mexico and for other purposes, or similar legislation, become law.

The unexpended balances of any appropriations made pursuant to this section shall remain available until expended.

Title to any lands or rights acquired pursuant to this Act shall be taken in the name of the United States in trust for the Indian tribe or individual Indian for which the land is acquired, and such lands or rights shall be exempt from State and local taxation.

Sec. 6. The Secretary of the Interior is directed to make rules and regulations for the operation and management of Indian forestry units on the principle of sustained yield management, to restrict the number of livestock grazed on Indian range units to the estimated carrying capacity of such ranges, and to promulgate such other rules and regulations as may be necessary to protect the range from deterioration, to prevent soil erosion, to assure full utilization of the range and like purposes.

Sec. 7. The Secretary of the Interior is hereby authorized to proclaim new Indian reservations on lands acquired pursuant to any authority conferred by this Act, or to add such lands to existing reservations: *Provided*, That lands added to existing reservations shall be designated for the exclusive use of Indians entitled by enrollment or by tribal membership to residence at such reservations.

Sec. 8. Nothing contained in this Act shall be construed to relate to Indian holdings or allotments or homesteads upon the public domain outside of the geographic boundaries of any Indian reservation now existing or established hereafter.

Sec. 9. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, such sums as may be necessary, but not to exceed $250,000 in any fiscal year, to be expended at the order of the Secretary of the Interior, in defraying the expenses of organizations created under this Act.

Sec. 10. There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, the sum of $10,000,000 to be established as a revolving fund from which the Secretary of the Interior, under such rules and regulations as he may prescribe, may make loans to Indian chartered corporations for the purpose of promoting the economic development of such tribes and of their members and may defray the expenses of administering such loans. Repayment of amounts loaned under this authorization shall be credited to the revolving fund and shall be available for the purposes for which the fund is established. A report shall be made annually to Congress of transactions under this authorization.

Sec. 11. There is hereby authorized to be appropriated, out of any funds in the United States Treasury not otherwise appropriated, a sum not to exceed $250,000 annually, together with any unexpended balances of previous appropriations made pursuant to this section, for loans to Indians for the payment of tuition and other expenses in recognized vocational and trade schools: *Provided*, That not more than $50,000 of such sum shall be vailable for loans to Indian students in high schools and colleges. Such loans shall be reimbursable under rules established by the Commissioner of Indian Affairs.

Sec. 12. The Secretary of the Interior is directed to establish standards of health, age, character, experience, knowledge, and ability for Indians who may be appointed, without regard to civil-service laws, to the various positions maintained; now or hereafter, by the Indian Office, in the administration of functions or services affecting any Indian tribe. Such qualified Indians shall hereafter have the preference to appointment to vacancies in any such positions.

Sec. 13. The provisions of this Act shall not apply to any of the Territories, colonies, or insular possessions of the United States, except that sections 9, 10, 11, 12, and 16, shall apply to the Territory of Alaska: *Provided*, That Sections 2, 4, 7, 16, 17, and 18 of this Act shall not apply to the following named Indian tribes, the members of such Indian tribes, together with members of other tribes affiliated with such named tribes located in the State of Oklahoma, as follows: Cheyenne, Arapaho, Apache, Comanche, Kiowa, Caddo, Delaware, Wichita, Osage, Kaw, Otoe Tonkawa, Pawnee, Ponca, Shawnee, Ottawa, Quapaw, Seneca, Wyandotte, Iowa, Sac and Fox, Kickapoo, Pottawatomi, Cherokee, Chickasaw, Choctaw, Creek, and Seminole. Section 4 of this Act shall not apply to the Indians of the Klamath Reservation in Oregon.

Sec. 14. The Secretary of the Interior is hereby directed to continue the allowance of the articles enumerated in section 17 of the Act of March 2, 1889 (23 Stat.L.894), or their commuted cash value under the Act of June 10, 1896 (29 Stat.L.334), to all Sioux Indians who would be eligible, but for the provisions of this Act, to receive allotments of lands in severalty under section 19 of the Act of May 29, 1908 (25 Stat.L.451), or under any prior Act, and who have the prescribed status of the head of a family or single person over the age of eighteen years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive in his own right more than one allowance of the benefits, and application must be made and approved during the lifetime of the allottee or the right shall lapse. Such benefits shall continue to be paid upon such reservation until such time as the lands available therein for allotment at the time of the passage of this Act would have been exhausted by the award to each person receiving such benefits of an allotment of eighty acres of such land.

Sec. 15. Nothing in this Act shall be construed to impair or prejudice any claim or suit of any Indian tribe against the United States. It is hereby declared to be the intent of Congress that no expenditures for the benefit of Indians made out of appropriations authorized by this Act shall be considered as offsets in any suit brought to recover upon any claim of such Indians against the United States.

Sec. 16. Any Indian tribe, or tribes, residing on the same reservation, shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, which shall become effective when ratified by a majority vote of the adult members of the tribe, or of the adult Indians residing on such reservation, as the case may be, at a special election authorized and called by the Secretary of the Interior under such rules and regulations as he may prescribe. Such constitution and bylaws when ratified as aforesaid

and approved by the Secretary of the Interior shall be revocable by an election open to the same voters and conducted in the same manner as hereinabove provided. Amendments to the constitution and bylaws may be ratified and approved by the Secretary in the same manner as the original constitution and bylaws.

In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local Governments. The Secretary of the Interior shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Bureau of the Budget and the Congress.

Sec. 17. The Secretary of the Interior may, upon petition by at least one-third of the adult Indians, issue a charter of incorporation to such tribe: *Provided*, That such charter shall not become operative until ratified at a special election by a majority vote of the adult Indians living on the reservation. Such charter may convey to the incorporated tribe the power to purchase, take by gift, or bequest, or otherwise, own, hold, manage, operate, and dispose of property of every description, real and personal, including the power to purchase restricted Indian lands and to issue in exchange therefor interests in corporate property, and such further powers as may be incidental to the conduct of corporate business, not inconsistent with law, but no authority shall be granted to sell, mortgage, or lease for a period exceeding ten years any of the land included in the limits of the reservation. Any charter so issued shall not be revoked or surrendered except by Act of Congress.

Sec. 18. This Act shall not apply to any reservation wherein a majority of the adult Indians, voting at a special election duly called by the Secretary of the Interior, shall vote against its application. It shall be the duty of the Secretary of the Interior, within one year after the passage and approval of this Act, to call such an election, which election shall be held by secret ballot upon thirty days' notice.

Sec. 19. The term "Indian" as used in this Act shall include all persons of Indian descent who are members of any recognized Indian tribe now under Federal jurisdiction, and all persons who are descendants of such members who were, on June 1, 1934, residing within the present boundaries of any Indian reservation, and shall further include all other persons of one-half or more Indian blood. For the purposes of this Act, Eskimos and other aboriginal peoples of Alaska shall be considered Indians. The term "tribe" wherever used in this Act shall be construed to refer to any Indian tribe, organized band, pueblo, or the Indians residing on one reservation. The words "adult Indian" wherever used in this Act shall be construed to refer to Indians who have attained the age of twenty-one years.

Approved, June 18, 1934.

SENATE JOINT RESOLUTION No. 29 -- RELATING TO THE WELFARE OF THE INDIANS OF CALIFORNIA

Filed with Secretary of State, April 30, 1953

WHEREAS, Remedial congressional legislation is urgently needed for the benefit of the Indians of California on several subjects, some of which are now before Congress represented by bills and other bills are being drafted which deal with the following subjects:

A bill, H.R. 1063, by Congressman Poulson "To amend title 18 United States Code entitled "Crimes and criminal procedure," with respect to state jurisdiction over offenses committed by or against Indians in the Indian country, and to confer on the State of California civil jurisdiction over Indians in the State."

A bill, H.R. 2974, by Congressman Phillips "To add to the revised role of Indians of California certain Indians who made application for enrollment within the time fixed by law, and for other purposes."

A bill, H.R. 2976, by Congressman Phillips "To authorize leasing of restricted Indian lands in the State of California for public religious, educational, residential, business, and for other purposes requiring the grant of long-term leases."

A bill, "To facilitate termination of federal supervision over Indian affairs in California."

A bill, "To authorize traveling expenses and pay to delegates representing Indians in California from funds in the treasury of the United States to the credit of the Indians of California"; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California hereby memorializes the Congress of the United States to enact remedial legislation for the purposes herein enumerated; and be it further

Resolved, That the Secretary of the Senate is directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of the Interior, to the Commissioner of Indian Affairs, to the Chairman of the Senate Committee on Interior and Insular Affairs, to the Chairman of the House Committee on Interior and Insular Affairs, and to each Senator and Representative from California in the Congress of the United States.

ASSEMBLY JOINT RESOLUTION No. 38 -- RELATIVE TO THE TERMINATION OF OF THE BUREAU OF INDIAN AFFAIRS IN CALIFORNIA

Filed with Secretary of State, June 15, 1953

WHEREAS, American Indians, who are citizens of the United States of America, generally remain subject to numerous restrictions on their activities, particularly with respect to land transactions, promulgated and enforced by the Bureau of Indian Affairs; and

WHEREAS, The Bureau of Indian Affairs has outlived its usefulness, though its employees, understandably alarmed by the prospect of unemployment, regularly engage in strenuous efforts for self-perpetuation in office; and

WHEREAS, The State of California is able to provide for the well-being of American Indians, as it does for other citizens, by laws of general applicability; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to take such steps as are necessary to effect a termination of the authority of the Bureau of Indian Affairs, particularly in the State of California; and be it further

Resolved, That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

INDIANS -- CRIMINAL OFFENSES AND CIVIL CAUSES -- STATE JURISDICTION

For text of Act see p.663

Senate Report No. 699, July 29, 1953 (To accompany H.R. 1063)
House Report No. 848, July 16, 1953 (To accompany H.R. 1063)

The Senate Report repeats in substance the House Report

Senate Report No. 699

The Committee on Interior and Insular Affairs, to whom was referred the bill (H.R. 1063) to confer jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, with respect to criminal offenses and civil causes of action committed or arising on Indian reservations within such States, and for other purposes, having considered the same, report thereon with the recommendation that it do pass without amendment.

This bill has been considered by the Committee on Interior and Insular Affairs of the House; on July 16, 1953, that committee submitted its report (H. Rept. 848) to the House, recommending its passage, and on July 27, 1953, it passed the House.

The Secretary of the Interior recommends the enactment of this proposed legislation as will appear from the Secretary of the Interior's report on H. R. 1063, dated July 7, 1953, which report is incorporated in said House Report No. 848.

The history and the reasons for the enactment of this proposed legislation is fully set forth in said House Report No. 848, a copy of which is attached hereto and made a part of this report, as follows:

(83d Cong., 1st Sess., Rept. No. 848)

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 1063) to amend title 18, United States Code, entitled, "Crimes and Criminal Procedure," with respect to State jurisdiction over offenses committed by or against Indians in the Indian country, and to confer on the State of California civil jurisdiction over Indians in the State, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

Explanation of H. R. 1063

BACKGROUND HISTORY OF THIS LEGISLATION

Your Committee on Interior and Insular Affairs, through its Indian Affairs Subcommittee, and with the continuing cooperation of the Secretary of the Interior and the Indian Bureau, has, during this session, operated in five major areas of legislation affecting the Indians. This legislation, whether before the House or presently under committee consideration, had two coordinate aims: First, withdrawal of Federal responsibility for Indian affairs wherever practicable; and second, termination of the subjection of Indians to Federal laws applicable to Indians as such.

LEGISLATIVE HISTORY

To accomplish these aims, the Congress must consider:

1. Enactment of legislation terminating Federal responsibility for administering the affairs of Indian tribes within individual States as rapidly as local circumstances will permit.

Legislation is presently contemplated with respect to tribes in the States of California, Florida, Iowa, New York, and Texas. Such action, of course, necessitates agreement with the proper public bodies of the political subdivisions affected, whereby individual States assume responsibility for the services customarily enjoyed by the non-Indian residents. In addition, provision must be made for distribution of tribal assets, either to tribal control, or to individual members, whichever may appear to be the better plan in each case; provision must also be made relative to trust property responsibility in all instances.

1. Enactment of legislation terminating Federal responsibility for administering the affairs of individual Indian tribes as rapidly as circumstances will permit.

In addition to legislation presently being considered for individual tribes, and members thereof, the committee is directing particular attention to legislation which would free from Federal supervision and control and from all disabilities and limitations specially applicable to Indians the following: The Flathead Tribe of Montana, the Klamath Tribe of Oregon, the Menominee Tribe of Wisconsin, the Osage Tribe of Oklahoma, the Potawatomie Tribe of Kansas and Nebraska, and those members of the Chippewa Tribe located on the Turtle Mountain Reservation of North Dakota.

3. Enactment of legislation terminating certain services provided by the Indian Bureau for Indians by transferring responsibility for such services to other governmental or private agencies, or to the Indians themselves.

In this area of operation, your committee has programed legislation which is aimed at withdrawal of Indian Bureau responsibility for health, welfare, soil conservation, and related programs. As an initial step, the committee has reported H. R. 303, which deals with the Indian Health Service, and the operation by the Bureau of Indian hospital and health facilities. H. R. 303, as reported, would transfer to the Department of Health, Education, and Welfare responsibility for this service; it would, at the same time, authorize transfer by the Secretary of that Department of such responsibility to State, county, or municipal subdivision, or to private nonprofit corporations, whenever satisfactory arrangements for such transfer could be agreed upon. In all instances of such service termination, care has been, and will continually be, taken to insure continuance of a high standard of service by the transferee agency.

It should be made clear that the transfer from one governmental agency to another will not create duplication of services; rather, it operates to place the Indian in the same position as non-Indians with respect to the service provided.

Members are familiar, in this area of legislation, with the numerous statutory enactments having as their purpose conferring of additional self-management upon specified tribes and individuals; this, through creation of tribal loan funds operated by the tribe, and increased authorizations for existing loan funds. Your committee has acted favorably on H.R. 5328, establishing a rehabilitation program for the Ute Mountain Tribe of the Ute Indians in Colorado, and similar legislation.

4. Enactment of legislation providing for withdrawal of individual Indians from Federal responsibility, at the same time removing such individuals from restrictions and disabilities applicable to Indians only.

Congress has many times in the past considered and enacted legislation having as its purpose payments of current tribal income on a pro rata basis to individual members of each tribe where such payments are consistent with the point of safety in the protection of the tribe as a whole. Such payments recognize the responsibility of the tribe and of individual members to contribute a fair share of the cost

of services enjoyed by them. Complementary to this aim have been the numerous bills providing for issuance of patents in fee to individuals, thus recognizing the ability of the individual to manage his own affairs.

Your committee has reported to the Speaker H.R. 4985, which would provide a procedure for the issuance of a certificate or decree of competency to any competent adult Indian making application, conceiving it to be a progressive piece of legislation in the general area considered here. Termination of Federal trusteeship over the property of competent Indians, and a complete discontinuance of all special services for them, can be fully accomplished only if a method is provided whereby the Indian who wishes to do so can obtain a declaration of competency, eventually to withdraw completely from the tribe, obtain his share of tribal property, and to on his way -- as a truly "first-class citizen." If enacted, H.R. 4985 would, in its operation, go a long way in narrowing down and helping to clarify the complex problem posed by individual withdrawal.

5. Enactment of legislation having as its purpose repeal of existing statutory provisions which set Indians apart from other citizens, thereby abolishing certain restrictions deemed discriminatory.

Interrelated legislation in this area deals with --

(a) restrictions applicable to Indians in personal property transactions;
(b) restrictions applicable to Indians as to disposition of livestock;
(c) restrictions applicable to Indians having to do with possession and sale of firearms;
(d) restrictions applicable to Indians having to do with sale, possession, and use of intoxicants;
(e) the question of State civil jurisdiction over Indians;
(f) the question of State criminal jurisdiction over Indians.

The House, in enacting H.R. 3409, has indicated its desire to repeal Federal statutes applicable only to Indians having to do with personal property, the sale of firearms, and the disposition of livestock. The committee has reported to the Speaker H.R. 1055, which has as its purpose repeal of Federal statutes prohibiting use or possession by, or sale and disposition of, intoxicants to Indians. H.R. 3409, together with H.R. 1055 - if enacted - would abolish restrictions applicable only to Indians.

THE PRESENT BILL, H.R. 1063

As introduced, H.R. 1063 would have extended the criminal laws of the State of California to all the Indian country within that State. Concurrently, it provided for withdrawal of the entire State from operation of the federal Indian liquor laws; finally, provision was made for permitting the California State courts to adjudicate civil controversies of any nature affecting Indians within the State, except where trust or restricted property was involved.

Need for such legislation on a general, rather than limited basis is grounded on the following: These States lack jurisdiction to prosecute Indians for most offenses committed on Indian reservations or other Indian country, with limited exceptions. The applicability of Federal criminal laws in States having Indian reservations is also limited. The United States district courts have a measure of jurisdiction over offenses committed on Indian reservations or other Indian country by or against Indians, but in cases of offenses committed by Indians against Indians that jurisdiction is limited to the so-called 10 major crimes: murder, manslaughter, rape, incest, assualt with intent to kill, assault with a dangerous weapon, arson, burglary, robbery, and larceny.

As a practical matter, the enforcement of law and order among the Indians in the Indian country has been left largely to the Indian groups themselves. In many States, tribes are not adequately organized to perform that function; consequently, there has been created a hiatus in law enforcement authority that could best be remedied by conferring criminal jurisdiction on States indicating an ability and willingness to accept such responsibility.

Similarly, the Indians of several States have reached a stage of acculturation and development that makes desirable extension of State civil jurisdiction to the Indian country within their borders. Permitting the State courts to adjudicate civil controversies arising on Indian reservations, and to extend to those reservations the substantive civil laws of the respective States insofar as those laws are of general application to private persons or private property, is deemed desirable.

After consideration of the proposed legislation, the committee concluded that: any legislation in this area should be on a general basis, making provision for all affected States to come within its terms; that the attitude of the various States and the Indian groups within those States on the jurisdiction transfer question should be heavily weighed before effecting transfer; and that any recommended legislation should retain application of Indian tribal customs and ordinances to civil transaction among the Indians, insofar as these customs or ordinances are not inconsistent with applicable State laws.

OPERATION OF H.R. 1063 AND STATES AFFECTED

Your committee has amended the printed bill by adopting substitute language which operates to --

(1) confer as of date of enactment, civil and criminal jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, excepting specified areas within three of these States as hereinafter noted.

In the foregoing States the Indian Bureau advised State and local authorities who indicated their willingness to accept the proposed transfer of jurisdiction. Indian groups in those States were, for the most part, agreeable to the transfer of jurisdiction, with certain groups opposing such transfer. The following tribes, each of which has a tribal law and order organization functioning in a reasonably satisfactory manner, have advised Bureau officials of their objections to State jurisdiction, and their reservation areas have therefore been excepted in the transfer legislation: Red Lake Band of Chippewa Indians of Minnesota, Warm Springs Tribe of Oregon, and the Menominee Tribe of Wisconsin.

(2) give consent of the United States to those States presently having organic laws expressly disclaiming jurisdiction to acquire jurisdiction subsequent to enactment by amending or repealing such disclaimer laws.

Examination of the Federal statutes and State constitutions has revealed that enabling acts for eight States, and in consequence the constitutions of those States, contain express disclaimers of jurisdiction. Included are Arizona, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, and Washington. Effect of the disclaimer of jurisdiction over Indian land within the borders of these States -- in the absence of consent being given for future action to assume jurisdiction -- is to retain exclusive Federal jurisdiction until Indian title in such lands is extinguished; such States could, under the bill as reported, proceed to amendment of their respective organic laws by proper amending procedure.

(3) give consent to all other States to acquire jurisdiction over criminal offenses or civil causes of action at such time and in such manner as by affirmative legislative action such States may elect to acquire jurisdiction.

This provision would operate with respect to Nevada, and other States similarly situated. In Nevada, authorities of some counties have indicated their willingness to accept jurisdiction, others opposed it, and still others stated they would accept such jurisdiction only with an accompanying Federal subsidy. The reported bill leaves open for such States the door to acquiring jurisdiction in the future.

(4) as reported, this legislation would repeal existing Federal statutes having to do with intoxicants, and is applicable only to Indians within the named States.

The favorable report of the Department of the Interior on this legislation is as follows:

United States Department of the Interior,
Office of the Secretary,
Washington 25, D. C., July 7, 1953.

My Dear Mr. Miller: At hearings before the Subcommittee on Indian Affairs of your committee on Monday, June 29, a request was made that this Department furnish your committee with a report reflecting the attitude of the various States and the Indian groups within those States on the question of the transfer of civil and criminal jurisdiction over Indians on their reservations to the respective States. The subcommittee also took action to amend H.R. 1063, a bill to confer civil and criminal jurisdiction on the State of California over Indians on the reservations in that State, to make it of general application rather than limit it to California and the subcommittee requested that representatives of this Department cooperate with the subcommittee in determining the States in which the amended bill should be made applicable. This is in response to those requests.

The Bureau of Indian Affairs of this Department has consulted with State and local authorities and with the Indian groups on the question of transfer of civil and criminal jurisdiction on the States in the following States: California, Minnesota, Nebraska, Nevada, Oregon, Washington, and Wisconsin. Bills for each of the States except Nebraska and Washington are presently pending before the Congress.

In each of the States mentioned, with the exception of Nevada, State and local authorities indicated their agreeableness to the proposed transfer of jurisdiction. In the State of Nevada authorities of some of the counties indicated their willingness to accept jurisdiction, others opposed it, and others stated they would accept such jurisdiction only with an accompanying Federal subsidy. The Indian groups in those States were, for the most part, agreeable to the transfer of jurisdiction but certain groups opposed such transfer. The following Indian tribes, each of which has a tribal law-and-order organization that functions in a reasonably satisfactory manner, objected to being subjected to State jurisdiction:

Minnesota .....Red Lake Band of Chippewa Indians
Oregon .....Warm Springs Tribe
Washington .....Colville and Yakima Tribes
Wisconsin .....Menominee Tribe

These Indian groups have expressed various reasons for their opposition to being subjected to State jurisdiction. The Red Lake Band of Chippewa Indians, in voting unanimously in opposition to the extension of State jurisdiction, observed that State law would not be of any benefit to tribal members and that the tribal members should be given an opportunity by referendum election to accept or reject the extension of State jurisdiction. The Warm Springs Tribe expressed its fear that its members would not be treated fairly in the State courts. The Warm Springs Tribe constitutes an isolated population group. The reservation is located in two counties and the seat of each county government is some distance from the reservation. It has been reported that these two

counties are poorly financed and heretofore have been unable to render any appreciable assistance to the Indians on the reservation. The Colville and Yakima Tribes, in opposing State jurisdiction, expressed fear of inequitable treatment in the State courts and fear that the extension of State law to their reservations would result in the loss of various rights. The Menominee Tribe states that its tribal police organization was capable of maintaining order on the reservation and that its people are not yet ready to be subjected to State laws.

The Bureau of Indian Affairs has consulted with State and local authorities and Indian groups only in the States mentioned above. However, we have other information which indicates that State authorities in Montana and South Dakota would be agreeable to a transfer of jurisdiction if such transfer were accomplished by a complete Federal subsidy. The Indians in these two States have indicated their unanimous opposition to the extension of State laws on their reservations.

It appears that there are legal impediments to the transfer of jurisdiction over Indians on their reservations in the case of a number of States. An examination of the Federal statutes and State constitutions indicates that enabling acts for the following States, and in consequence the constitutions of these States, contain express disclaimers of jurisdiction. These States are Arizona, Montana, New Mexico, North Dakota, Oklahoma, South Dakota, Utah, and Washington. In these cases the enabling acts required the people of the proposed States expressly to disclaim jurisdiction over Indian land and that, until the Indian title was extenguished, the lands were to remain under the absolute jurisdiction and control of the Congress of the United States. In each instance the State constitution contains an appropriate disclaimer. It would appear in each case, therefore, that the Congress would be required to give its consent and the people of each State would be required to amend the State constitution before the State legally could assume jurisdiction.

This Department does not have information on the attitude and disposition of the State and local authorities and the Indian groups in the States, other than those listed in the second paragraph of this report.

Sincerely, yours,

Orme Lewis,
Assistant Secretary of the Interior.

Hon. A.L. Miller
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington 25, D.C.

The Committee on Interior and Insular Affairs unanimously recommends the enactment of H.R. 1063 as amended.

PUBLIC LAW 280 - 83d CONGRESS
CHAPTER 505 - 1st SESSION
H. R. 1063

AN ACT

To confer jurisdiction on the States of California, Minnesota, Nebraska, Oregon, and Wisconsin, with respect to criminal offenses and civil causes of action committed arising on Indian reservations within such States, and for other purposes. *Indians.*

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 53 of title 18, United States Code, is hereby amended by inserting at the end of the chapter analysis preceding section 1151 of such title the following new item: *State jurisdiction over criminal offenses.*

"1162. State jurisdiction over offenses committed by or against Indians in the Indian country."

SEC. 2 Title 18, United States Code, is hereby amended by inserting in chapter 53 thereof immediately after section 1161 a new section, to be designated as section 1162, as follows:

"§ 1162. State jurisdiction over offenses committed by or against Indians in the Indian country

"(a) Each of the States listed in the following table shall have jurisdiction over offenses committed by or against Indians in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over offenses committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country as they have elsewhere within the State:

"State of	Indian country affected
California	All Indian country within the State
Minnesota	All Indian country within the State, except the Red Lake Reservation
Nebraska	All Indian country within the State
Oregon	All Indian country within the State, except the Warm Springs Reservation
Wisconsin	All Indian country within the State, except the Menominee Reservation

67 Stat. 588.
67 Stat. 589.

"(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, and, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof.

Taxation of property, etc.

SEC. 3. Chapter 85 of title 28, United States Code, is hereby amended by inserting at the end of the chapter analysis preceding section 1331 of such title the following new item:

State jurisdiction over civil causes.

"1360. State civil jurisdiction in actions to which Indians are parties."

SEC. 4. Title 28, United States Code, is hereby amended by inserting in chapter 85 thereof immediately after section 1359 a new section, to be designated as section 1360, as follows:

"§ 1360. State civil jurisdiction in actions to which Indians are parties

"(a) Each of the States listed in the following table shall have jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country listed opposite the name of the State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country as they have elsewhere within the State:

"State of	Indian country affected
California	All Indian country within the State
Minnesota	All Indian country within the State, except the Red Lake Reservation
Nebraska	All Indian country within the State
Oregon	All Indian country within the State, except the Warm Springs Reservation
Wisconsin	All Indian country within the State, except the Menominee Reservation

"(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

Taxation of property, etc.

"(c) Any tribal ordinance or custom theretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, of not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursuant to this section."

67 Stat. 589. / 67 Stat. 590.

SEC. 5. Section 1 of the Act of October 5, 1949 (63 Stat. 705, ch. 604), is hereby repealed, but such repeal shall not affect any proceedings heretofore instituted under that Section.

Repeal

SEC. 6. Notwithstanding the provisions of any Enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil and criminal jurisdiction in accordance with the provisions of this Act: Provided, That the provisions of this Act shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes as the case may be.

Removal of legal impediment.

All 67 Stat.590.

SEC. 7. The consent of the United States is hereby given to any other State not having jurisdiction with respect to criminal offenses or civil causes of action, or with respect to both, as provided for in this Act, to assume jurisdiction at such time, and in such manner as the people of the State shall, by affirmative legislative action, obligate and bind th the State to assumption thereof.

Consent of U.S. to other States.

APPROVED AUGUST 15, 1953

SENATE JOINT RESOLUTION No. 4 -- MEMORIALIZING CONGRESS AND THE PRESIDENT OF THE UNITED STATES TO REFRAIN FROM TERMINATING FEDERAL CONTROL AND PROTECTION OF INDIAN RESERVATIONS

Adopted in the Assembly March 31, 1954 and in the Senate April, 1954

WHEREAS, There are presently before the Congress of the United States three bills, S. 2749, S. 2515, and H.R. 7322, which would affect Indian tribes, bands, groups, and individual members thereof in California by abolishing the Bureau of Indian Affairs of the Department of the Interior, by removing federal guardianship, and by terminating supervision over Indian property; and

WHEREAS, The American Indians conveyed their property to the United States Government in exchange for the promise of perpetual federal protection and certain other benefits; and

WHEREAS, The Federal Government set aside certain of the ancestral homelands of the American Indians for their perpetual use and enjoyment; and

WHEREAS, Federal control and protection of Indian reservations has served to prepare the American Indian for transition to a different way of life by continuing on the reservation a culture deeply cherished by the Indians and at the same time permitting tribal members to leave a reservation when they so desire; and

WHEREAS, There are 117 separate Indian reservations in California upon which 40 tribes of American Indians reside; and

WHEREAS, These tribes vary widely in their educational level, and social and economic development and many of them would suffer greatly if federal control and protection of their reservations was terminated; and

WHEREAS, The State of California is not prepared to take over control and protection of the Indians within its boundaries with the results that termination of federal protection will mean that many tribes that are not sufficiently developed economically to fend for themselves will suffer greatly; and

WHEREAS, Federal control and protection of the Indians should be gradually withdrawn as each tribe reaches the proper cultural development to assume responsibilities for its members; and

WHEREAS, The Legislature of the State of California has not and does not seek to terminate federal control and protection of the Indians; now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to continue federal control and protection over the American Indians within California; and be it further

Resolved, That the Secretary of the Senate of the State of California is authorized to transmit copies of this resolution to the President of the United States, the President of the Senate, the Speaker of the House of Representatives and to each Senator and Respresentative from California in the Congress of the United States.

THE RANCHERIA ACT
Public Law 85-671
as amended August 11, 1964

AN ACT

To provide for the distribution of the land and assets of certain Indian rancherias and reservations in California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the lands, including minerals, water rights, and improvements located on the lands, and other assets of the rancherias and reservations lying wholly within the State of California shall be distributed in accordance with the provisions of this Act when such distribution is requested by a majority vote of the adult Indians of a rancheria or reservation or of the adult Indians who hold formal or informal assignments on the rancheria or reservation, as determined by the Secretary of the Interior. The requirement for a majority vote shall not apply to the rancherias and reservations that were at any time named in this section.

Section 2. (a) When the Indians of a rancheria or reservation request a distribution of assets in accordance with the provisions of this Act, they, or the Secretary of the Interior after consultation with them, shall prepare a plan for distributing to individual Indians the assets of the reservation or rancheria, including the assigned and the unassigned lands, or for selling such assets and distributing the proceeds of sale, or for conveying such assets to a corporation or other legal entity organized or designated by the group, or for conveying such assets to the group as tenants in common: Provided, That the provisions of this section with respect for distribution of assets shall not apply to any case in which the requirement for such request is waived by section 1 of this Act, and in any such case the plan shall be prepared as though request therefor had been made. The Secretary shall provide such assistance to the Indians as is necessary to organize a corporation or other legal entity for the purposes of this Act.

(b) General notice shall be given of the contents of a plan prepared pursuant to subsection (a) of this section and approved by the Secretary, and any Indian who feels that he is unfairly treated in the proposed distribution of the property shall be given an opportunity to present his views and arguments for the consideration of the Secretary. After such consideration, the plan or a revision thereof shall be submitted for the approval of the adult Indians who will participate in the distribution of the property, and if the plan is approved by a majority of such Indians who vote in a referendum called for that purpose by the Secretary the plan shall be carried out: Provided, That the provisions of such plan may be modified with the approval of the Secretary and consent of the majority of the distributees. It is the intention of Congress that such plan shall be completed not more than three years after it is approved.

(c) Any grantee under the provisions of this section shall receive an unrestricted title to the property conveyed, and the conveyance shall be recorded in the appropriate county office.

(d) No property distributed under the provisions of this Act shall at the time of distribution be subject to any Federal or State income tax. Following any distribution of property made under the provisions of this Act, such property and any income derived therefrom by the distributee shall be subject to the same taxes, State and Federal, as in the case of non-Indians: Provided, That for the purpose of capital gains or losses the base value of the property shall be the value of the property when distributed to the individual, corporation, or other legal entity.

Section 3. Before making the conveyances authorized by this Act on any rancheria or reservation, the Secretary of the Interior is directed:

(a) To cause surveys to be made of the exterior or interior boundaries of the lands to the extent that such surveys are necessary or appropriate for the conveyance of marketable and recordable titles to the lands.

(b) To complete any construction or improvement required to bring Indian Bureau roads serving the rancherias or reservations up to adequate standards comparable to standards for similar roads of the State or subdivision thereof. The Secretary is authorized to contract with the State of California or political subdivisions thereof for the construction or improvement of such roads and to expend under such contracts moneys appropriated by Congress for the Indian road system. When such roads are transferred to the State or local government the Secretary is authorized to convey rights-of-way for such roads, including any improvements thereon.

(c) To construct, improve, install, extend, or otherwise provide, by contract or otherwise, sanitation facilities (including domestic and community water supplies and facilities, drainage facilities, and sewage and waste-disposal facilities, together with necessary appurtenances and fixtures) and irrigation facilities for Indian homes, communities, and lands, as he and the Indians agree, within a reasonable time, should be completed by the United States: Provided, That with respect to sanitation facilities, as hereinbefore described, the functions specified in this paragraph, including agreements with Indians in respect to such facilities, shall be performed by the Secretary of Health, Education, and Welfare in accordance with the provisions of section 7 of the Act of August 4, 1954 (58 Stat. 674), as amended (42 U.S.C. 2004a).

(d) To cancel all reimbursable indebtedness owing to the United States on account of unpaid construction, operation, and maintenance charges for water facilities on the reservation or rancheria.

(e) To exchange any lands within the rancheria or reservation that are held by the United States for the use of Indians which the Secretary and the Indians affected agree should be exchanged before the termination of the Federal trust for lands and improvements of approximately equal value.

Section 4. Nothing in this Act shall abrogate any water right that exists by virtue of the laws of the United States. To the extent that the laws of the State of California are not now applicable to any water right appurtenant to any lands involved herein they shall continue to be

inapplicable while the water right is in Indian ownership for a period not to exceed fifteen years after the conveyance pursuant to this Act of an unrestricted title thereto, and thereafter the applicability of such laws shall be without prejudice to the priority of any such right not theretofore based upon State law. During the time such State law is not applicable the Attorney General shall represent the Indian owner in all legal proceedings, including proceedings before administrative bodies, involving such water right, and in any necessary affirmative action to prevent adverse appropriation of water which would encroach upon the Indian water right.

Section 5. (a) The Secretary of the Interior is authorized to convey without consideration to Indians who receive conveyances of land pursuant to this Act, or to a corporation or other legal entity organized by such Indians, or to a public or nonprofit body, any federally owned property on the reservations or rancherias subject to this Act that is not needed for the administration of Indian affairs in California.

(b) For the purposes of this Act, the assets of the Upper Lake Rancheria and the Robinson Rancheria shall include the one-hundred and sixty acre tract set aside as a wood reserve for the Upper Lake Indians by secretarial order dated February 15, 1907.

(c) The Secretary of the Interior is authorized to sell the five hundred and sixty acres of land, more or less, which were withdrawn from entry, sale, or other disposition, and set aside for the Indians of Indian Ranch, Inyo County, California, by the Act of March 3, 1928 (45 Stat. 162), and to distribute the proceeds of sale among the heirs of George Hanson.

(d) Any rancheria or reservation lying wholly within the State of California that is held by the United States for the use of Indians of California and that was not occupied on January 1, 1964, by Indians under a formal or informal assignment shall be sold by the Secretary of the Interior and the proceeds of the sale shall be deposited in the Treasury of the United States to the credit of the Indians of California. Any rancheria or reservation lying wholly within the State of California that is held by the United States for a named tribe, band, or group that was not occupied on January 1, 1964, may be sold by the Secretary of the Interior and the proceeds shall be deposited to the credit of the tribe, band, or group.

Section 6. The Secretary of the Interior shall disburse to the Indians of the rancherias and reservations that are subject to this Act all funds of such Indians that are in the custody of the United States.

Section 7. Nothing in this Act shall affect any claim filed before the Indian Claims Commission, or the right, if any, of the Indians subject to this Act to share in any judgment recovered against the United States on behalf of the Indians of California.

Section 8. Before conveying or distributing property pursuant to this Act, the Secretary of the Interior shall protect the rights of individual Indians who are minors, non compos mentis, or in the opinion of the Secretary in need of assistance in conducting their affairs, by causing the appointment of guardians for such Indians in courts of competent jurisdiction, or by such other means as he may deem adequate, without

application from such Indians, including but not limited to the creation of a trust for such Indians' property with a trustee selected by the Secretary, or the purchase by the Secretary of annuities for such Indians.

Section 9. Prior to the termination of the Federal trust relationship in accordance with the provisions of this Act, the Secretary of the Interior is authorized to undertake, within the limits of available appropriations, a special program of education and training designed to help the Indians to earn a livelihood, to conduct their own affairs, and to assume their responsibilities as citizens without special services because of their status as Indians. Such program may include language training, orientation in non-Indian community customs and living standards, vocational training and related subjects, transportation to the place of training or instruction. For the purposes of such program, the Secretary is authorized to enter into contracts or agreements, with any Federal, State, or local governmental agency, corporation, association, or person. Nothing in this section shall preclude any Federal agency from undertaking any other program for the education and training of Indians with funds appropriated to it.

Section 10. (a) The plan for the distribution of the assets of a rancheria or reservation, when approved by the Secretary and by the Indians in a referendum vote as provided in subsection 2(b) of this Act, shall be final, and the distribution of assets pursuant to such plan shall not be the basis for any claim against the United States by an Indian who receives or is denied a part of the assets distributed.

(b) After the assets of a rancheria or reservation have been distributed pursuant to this Act, the Indians who receive any part of such assets, and the dependent members of their immediate families who are not members of any other tribe or band of Indians, shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all restrictions and tax exemptions applicable to trust or restricted land or interests therein owned by them are terminated, all statutes of the United States which affect Indians because of their status as Indians shall be inapplicable to them, and the laws of the several States shall apply to them in the same manner as they apply to other citizens or persons within their jurisdiction. Nothing in this Act, however, shall affect the status of such persons as citizens of the United States. The provisions of this subsection, as amended, shall apply in the case of a distribution of assets made either before or after the amendment of the subsection.

Section 11. The constituion and corporate charter adopted pursuant to the Act of June 18, 1934 (48 Stat. 984), as amended, or any other authority, by any rancherta or reservation subject to this Act shall be revoked by the Secretary of the Interior when a plan is approved by a majority of the adult Indians thereof pursuant to subsection 2(b) of this Act.

Section 12. The Secretary of the Interior is authorized to issue such rules and regulations and to execute or approve such conveyancing instruments as he deems necessary to carry out the provisions of this Act.

Section 13. There is authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

PUBLIC LAW 90-284
"INDIAN BILL OF RIGHTS"
April 11, 1968

TITLE II -- RIGHTS OF INDIANS

Definitions

Sec. 201. For purpose of this title, the term --

(1) "Indian tribe" means any tribe, band, or other group of Indians subject to the jurisdiction of the United States and recognized as possessing powers of self-government.

(2) "powers of self-government" means and includes all governmental powers possessed by an Indian tribe, executive, legislative, and judicial, and all offices, bodies, and tribunals by and through which they are executed, including courts of Indian offenses; and

(3) "Indian court" means any Indian tribal court or court of Indian offense.

Indian Rights

Sec. 202. No Indian tribe in exercising powers of self-government shall --

(1) make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or the right of the people peaceable to assemble and to petition for a redress of grievances;

(2) violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;

(3) subject any person for the same offense to be twice put in jeopardy;

(4) compel any person in any criminal case to be a witness against himself;

(5) take any private property for a public use without just compensation;

(6) deny to any person in a criminal proceeding the rights to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;

(7) require excessive bail, impose excessive finds, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of six months or a fine of $500, or both; *Penalty, limitation.*

(8) deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law; *82 STAT. 77*

(9) pass any bill or attainder or ex post facto law; or *82 STAT. 78*

(10) deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six persons.

Sec. 203. The privilege of the writ of habeas corpus shall be available to any person, in a court of the United States, to test the legality of his detention by order of an Indian tribe.

TITLE III -- MODEL CODE GOVERNING COURTS OF INDIAN OFFENSES

Recommendations to Congress.

Sec. 301. The Secretary of the Interior is authorized and directed to recommend to the Congress, on or before July 1, 1968, a model code to govern the administration of justice by courts of Indian offenses on Indian reservations. Such code shall include provisions which will (1) assure that any individual being tried for an offense by a court of Indian offenses shall have the same rights, privileges, and immunities under the United States Constitution as would be guaranteed any citizen of the United States being tried in a Federal court for any similar offense, (2) assure that any individual being tried for an offense by a court of Indian offenses will be advised and made aware of his rights under the United States Constitution, and under any tribal constitution applicable to such individual, (3) establish proper qualifications for the office of judge of the court of Indian offenses, and (4) provide for the establishing of educational classes for the training of judges of courts of Indian offenses. In carrying out the provisions of this title, the Secretary of the Interior shall consult with the Indians, Indian tribes, and interested agencies of the United States.

Section 302. There is hereby authorized to be appropriated such sum as may be necessary to carry out the provisions of this title.

TITLE IV -- JURISDICTION OVER CRIMINAL AND CIVIL ACTIONS

Assumption by State

Sec. 401. (a) The consent of the United States is hereby given to any state not having jurisdiction over criminal offenses committed by or against Indians in the areas of Indian country situated within such State to assume, with the consent of the Indian tribe occupying the particular Indian country or part thereof, which could be affected by such assumption, such measure of jurisdiction over any or all of such offenses committed within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over any such offense committed elsewhere within the State, and the criminal laws of such State shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or personal property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is a subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute or with any

regulation made pursuant thereto; or shall deprive any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under Federal treaty, agreement, or statute with respect to hunting, trapping, or fishing or the control, licensing, or regulation thereof. 82 STAT.78 82 STAT.79

Assumption by State of Civil Jurisdiction

Sec. 402 (a) The consent of the United States is hereby given to any State not having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within such State to assume, with the consent of the tribe occupying the particular Indian country or part thereof which would be affected by such assumption, such measure of jurisdiction over any or all such civil causes of action arising within such Indian country or any part thereof as may be determined by such State to the same extent that such State has jurisdiction over other civil causes of action, and those civil laws of such State that are of general application to private persons or private property shall have the same force and effect within such Indian country or part thereof as they have elsewhere within that State.

(b) Nothing in this section shall authorize the alienation, encumbrance, or taxation of any real or person property, including water rights, belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States; or shall authorize regulation of the use of such property in a manner inconsistent with any Federal treaty, agreement, or statute, or with any regulation made pursuant thereto; or shall confer jurisdiction upon the State to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of such property or any interest therein.

(c) Any tribal ordinance or custom heretofore or hereafter adopted by an Indian tribe, band, or community in the exercise of any authority which it may possess shall, if not inconsistent with any applicable civil law of the State, be given full force and effect in the determination of civil causes of action pursusnt to this section.

Retrocession of Jurisdiction by State

Sec. 403. (a) The United States is authorized to accept a retrocession by any State of all or any measure of the criminal or civil jurisdiction, or both, acquired by such State pursuant to the provisions of section 1162 of title 18 of the United States Code, section 1360 of title 28 of the United States Code, or section 7 of the Act of August 15, 1953 (67 Stat.588), as it was in effect prior to its repeal by subsection (b) of this section. 28 USC 1360 note.

(b) Section 7 of the Act of August 15, 1953 (67 Stat.588), is hereby repealed, but such repeal shall not affect any cession of jurisdiction made pursuant to such section prior to its repeal. Repeal.

Consent to Amend State Laws

Sec. 404. Notwithstanding the provisions of any enabling Act for the admission of a State, the consent of the United States is hereby given to the people of any State to amend, where necessary, their State constitution or existing statutes, as the case may be, to remove any legal impediment to the assumption of civil or criminal jurisdiction in accordance with the provisions of this title. The provisions of this title shall not become effective with respect to such assumption of jurisdiction by any such State until the people thereof have appropriately amended their State constitution or statutes, as the case may be.

Actions not to Abate

Sec. 405 (a) No action or proceeding pending before any court or agency of the United States immediately prior to any cession of jurisdiction by the United States pursuant to this title shall abate by reason of that cession. For the purposes of any such action or proceeding, such cession shall take effect on the day following the date of final determination of such action or proceeding.

(b) No cession made by the United States under this title shall deprive any court of the United States of jurisdiction to hear, determine, render judgment, or impose sentence in any criminal action instituted against any person for any offense committed before the effective date of such cession, if the offense charged in such action was cognizable under any law of the United States at the time of the commission of such offense. For the purposes of any such criminal action, such cession shall take effect on the day following the date of final determination of such action.

Special Election

Sec. 406. State jurisdiction acquired pursuant to this title with respect to criminal offenses or civil causes of action, or with respect to both, shall be applicable in Indian country only where the enrolled Indians within the affected area of such Indian country accept such jurisdiction by a majority vote of the adult Indians voting at a special election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults.

TITLE V -- OFFENSES WITHIN INDIAN COUNTRY

Amendment

Sec. 501. Section 1153 of title 18 of the United States Code is amended by inserting immediately after "weapon,", the following: "assault resulting in serious bodily injury,". *80 Stat. 1100.*

TITLE VI -- EMPLOYMENT OF LEGAL COUNSEL

Approval

Sec. 601. Notwithstanding any other provision of law, if any application made by an Indian, Indian tribe, Indian council, or any band or group of Indians under any law requiring the approval of the Secretary of the Interior or the Commissioner of Indian Affairs of contracts or agreements relating to the employment of legal counsel (including the choice of counsel and the fixing of fees) by any such Indians, tribe, council, band, or group is neither granted nor denied within ninety days following the making of such application, such approval shall be deemed to have been granted.

TITLE VII -- MATERIALS RELATING TO CONSTITUTIONAL RIGHTS OF INDIANS

Secretary of Interior to Prepare

Sec. 701. (a) In order that the constitutional rights of Indians might be fully protected, the Secretary of the Interior is authorized and directed to *82 Stat. 81*

(1) have the document entitled "Indian Affairs, Laws and Treaties" (Senate Document Numbered 319, volumes 1 and 2, Fifty-eighty Congress), revised and extended to include all treaties, laws, Executive orders, and regulations relating to Indian affairs in force on September 1, 1967, and to have such revised document printed at the Government Printing Office;

(2) have revised and republished the treatise entitled "Federal Indian Law"; and

(3) have prepared, to the extent determined by the Secretary of the Interior to be feasible, an accurate compilation of the official opinions, published and unpublished, of the Solicitor of the Department of the Interior relating to Indian affairs rendered by the Solicitor prior to September 1, 1967, and to have such compilation printed as a Government publication at the Government Printing Office.

(b) With respect to the document entitled "Indian Affairs, Laws, and Treaties" as revised and extended in accordance with paragraph (1) of subsection (a), and the compilation prepared in accordance with paragraph (3) of such subsection, the Secretary of the Interior shall take such action as may be necessary to keep such document and compilation current on an annual basis.

(c) There is authorized to be appropriated for carrying out the provision of this title, with respect to the preperation but not included printing, such sum as may be necessary.

93D CONGRESS
1st Session

H. R. 8347

IN THE HOUSE OF REPRESENTATIVES

June 4, 1973

Mr. Pettis introduced the following bill; which was referred to the Committee on Interior and Insular Affairs

A BILL

To amend section 1326 of the Civil Rights Act of April 11, 1968 (82 Stat. 80; Public Law 90-284), relating to State civil jurisdiction in actions to which Indians are parties, and State jurisdiction over offenses committed by or against Indians in Indian country.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That section 1326 of the Civil Rights Act of April 11, 1968 (82 Stat. 80; Public Law 90-284), is hereby amended to add the following thereto:

"State jurisdiction heretofore acquired over Indian tribes, bands, or groups which were and still are duly recognized as Federal Indian tribes by the United States Government

who were unilaterally brought under Public Law 280 (Act of August 15, 1953; 67 Stat. 589, as amended August 24, 1954, 68 Stat. 795) without having previously consented thereto are hereby granted the right to remove themselves from all or such measure of the State jurisdiction conferred by said Public Law 280 as they are agreeable to: Provided, That such tribe, band, or group initiates positive action to evidence their unwillingness to consent to the continuation of such jurisdiction, in whole or in part, in the form of a special election by a majority vote of all eligible adult Indians voting at such election held for that purpose. The Secretary of the Interior shall call such special election under such rules and regulations as he may prescribe, when requested to do so by the tribal council or other governing body, or by 20 per centum of such enrolled adults. Following said special election the tribe, band, or group of Indians involved shall notify the appropriate secretary of state and the Secretary of the Interior of the results of any such election within ninety days thereafter.

"The right of removal from State jurisdiction hereby conferred upon any tribe, band, or group shall not require the consent of the appropriate State if they desire total removal therefrom, but if they desire to be selective by giving their consent to a limited State jurisdiction over certain areas of criminal and civil matters in Indian country, then the con-

sent of the appropriate State must first be obtained for anything less than total transfer from the State to the United States Government.

"In the event that, any such tribe, band, or group of said federally recognized Indians sees fit to exercise the rights conferred by this amendment, the United States Government is hereby authorized to resume jurisdiction following their removal from the jurisdiction of the State.

"Any removal action by a tribe under this amendment will not become effective for a period of one year following notification thereof to the appropriate secretary of state, and the Secretary of Interior.

APPENDIX "M"

RECOMMENDATIONS

RURAL STATE ADVISORY COMMISSION ON INDIAN AFFAIRS

March 1970

101

RURAL

RECOMMENDATIONS

Education

The State Advisory Commission on Indian Affairs recommends that,

1. Capable Indian students be encouraged to pursue higher education.

2. State funding be provided in fiscal 1970-71 to meet the state commitment necessary for full federal participation in the Johnson-O'Malley program for California. The federal government funds are committed and available for a limited program, but state funds have not been committed.

3. Teacher in-service training programs be expanded and accelerated in the studies of Indian history and culture and that valuable historical and cultural contributions, past and present, of American Indians.

4. Schools in higher education be encouraged to offer classes for the training of teacher aides.

5. Indian teacher aides be used in the schools wherever possible for services that they are capable of rendering.

6. The State of California make serious attempts to influence and improve school text books with factual presentations of Indian history, Indian culture, and Indian contributions to America and the world.

7. Contractual aid programs be reviewed to assure that they will provide long range educational development and continuity. The individual Indians should be included in the arrangement.

8. Legislation be introduced in the form of matching funds for the dependents of Indian people seeking higher education.

9. Establishment of categorical financial aid be explored, rather than general aid, for dependents of Indians seeking higher education.

10. Ways and means be explored to provide more funds by way of scholarships for Indians who wish to pursue higher education as well as advanced vocational education.

11. The State Department of Education should assist and cooperate with reputable Indian organizations in acquiring educational funding through Health, Education and Welfare (HEW), to meet some of the unique needs of Indians in the educational field.

12. School districts be encouraged to take advantage of the Department of Agriculture's surplus food to provide free or low priced school lunch programs for all disadvantaged children including Indians.

Health

1. A continuation, on an expanded basis, of the funding of the Indian Health Project.

2. County Welfare Agencies employ as community aides, Indians who are indigenous to the community, to assist the professionals in the provision of services. As of July 1, 1969 aides are now required in every public welfare agency nationwide.

   The purpose is to enhance the effectiveness of social welfare's commitment to provide services and to provide employment for low income families on welfare.

3. Federal, state, and local agencies providing publicly funded health, education, welfare, and other services make some extra effort to bring these services to the attention of the Indian people.

Water

1. The United States Public Health Service install domestic water systems and sanitation facilities without delay, on an emergency basis, where water and sanitation facilities are needed on Indian land held in trust by the federal government in the State of California. All installations and improvements should meet state and local standards. County sanitarians should be consulted and state and county health department approval should be assured for the project before installation of the project is begun.

2. The Bureau of Indian Affairs re-open for consideration, at the request of the Indian residents involved, each reservation and rancheria which has been terminated, for the purpose of determining if water and sanitation facilities installed by the Bureau of Indian Affairs or the United States Public Health Service meet state and local standards. That each terminated rancheria or reservation be reviewed on its own merits and systems found to be substandard be improved by the responsible agency to meet state and local standards. If statutory change is required for this purpose, immediate consideration be given to making necessary amendments for this purpose.

3. The State Department of Public Health, because of the extreme need, make every effort to find funding for sanitation aide training as soon as possible.

4. The Governor, the California Legislature and the Congressional delegations take the initiative in requesting Congress to appropriate sufficient funds to assure installation of water systems and sanitation facilities without delay for Indians living on federal trust land in California.

Housing

1. The State of California, Division of Housing, add an Indian unit to assist tribal groups create the legal entities required so that federal agencies with federal funds could provide housing and home improvement projects for California Indians.

2. Various federal agencies with the responsibility for providing housing programs, should train sufficient numbers of Indians to not only acquaint Indian communities with such programs, but to actually assist the various tribes in implementing housing projects.

3. The federal government establish an "Indian Desk" in the regional office of Housing and Urban Development (HUD), Housing Administration Assistance (HAA), Economic Development Administration (EDA), and other regional federal offices which are involved in assisting people in economic development, housing, home improvement, or other areas of need.

4. Indian tribal councils should be appraised of the feasibility of forming public housing authorities on the tribal level to increase the opportunities available to them.

Employment

1. The State Department of Employment establish a full time coordinator of Indian employment.

2. A rural strategy be developed to obtain and make use of local Manpower Development Training Act (MDTA) programs.

3. Schools close to the trainees home be used for training when possible thereby causing less dislocation of family life.

4. Ways and means be explored to furnish transportation for trainees to and from training areas rather than relocating the trainees away from the reservations with the resultant dislocation of family life.

5. The criteria for establishing eligibility to participate in MDTA programs be reviewed for the purpose of establishing more realistic levels of requirements for Indians to become eligible to participate.

6. The income criteria in the MDTA program be reviewed periodically for the purpose of increasing the income allowance of the participants to enable them to meet increased costs of housing, food, transportation, and other necessities.

7. The Indian Human Resources Development (HRD) program should be expanded. The Indian employment outreach workers have been singularly successful and the program should be expanded by the State Department of Employment to other areas of the state.

8. Ways and means be explored to provide assistance for the development and operation of Indian owned businesses.

9. Economic development be encouraged on reservations wherever possible to develop the greatest possible employment opportunities and economic stability for the Indian community.

10. Training slots should be increased and special accommodations made for disadvantaged California Indians in the Bureau of Indian Affairs Vocational Training program.

11. California Indians should be declared eligible to participate in all federally funded programs for Indians on the same basis as Indians in other states (SJR 32). Land status or land occupation should not be a determining factor in establishing eligibility to participate.

12. Industries should be induced to locate on Indian land wherever feasible.

RECOMMENDATIONS

URBAN STATE ADVISORY COMMISSION ON INDIAN AFFAIRS

March 1970

URBAN

RECOMMENDATIONS

Education

The State Advisory Commission on Indian Affairs recommends that,

1. Tutorial programs be established for Indian students. Tutoring for students who lack familiarity with the English language, often accompanied by inadequate reading and spelling skills, was deemed of the highest priority by all witnesses.

   a. Indian parents, residing in the area should be utilized as tutors. Decentralized, out of school situations was envisioned as producing maximum benefits for participants. Indian volunteers or paid teacher aides would benefit by the program through improvement of their social status.

   b. Improve the students "self-image" by using teaching materials and text books which present Indian history and culture in a factual and unbiased manner.

2. The Bureau of Indian Affairs, upon finding a home for the relocated Indian family, notify the school district of the new arrivals. Better minor and adult education program planning would result which could encourage adult involvement. Programs should be planned in the schools to involve overly shy, new Indian students. One witness testified concerning an ongoing successful program in one school whereby a student host and hostess was appointed in each room. Their duties included going to the office to greet the new student, introducing him to other students, directing him and making him feel welcome to the new school. This innovative approach to help overcome the new students shyness was commended by the Commission.

3. Teacher in-service training programs be instituted whenever possible. Teach in-service training should provide teachers with accurate knowledge of Indian history and culture. One way to overcome the high drop-out rate

of Indian students was determined to be the improvement of the student's self-image by a positive approach to his history and culture. A development of pride in the Indian people's historical and cultural contributions to America should be stressed.

4. Indian consultants be utilized whenever possible in Indian education studies.

5. Indian counselors be utilized to work with Indian students and adults to combat the student drop-out rate. Close liaison should exist between schools, attendance counselors and parents for prompt referral of potential drop-out students or any student who needs added services to assure his enjoyment of school and his opportunity for success.

6. New emphasis be placed upon Head Start, Upward Bound and adult education programs (with matching state funds).

7. Indians desiring to be relocated should be screened more carefully by Bureau of Indian Affairs staff before they are chosen for the program. Improved counseling with orientation programs should be provided on the reservation on the subjects of urban living, costs of food and services and allied subjects to better prepare the subject for survival. Improved educational opportunities beyond the present skill training now offered by the Bureau was cited as an urgent need of the Indian people.

8. A youth census be authorized by the State Board of Education with adequate funding appropriated by the State Legislature for the purpose. The census should include all persons between 4 and 18 years of age, inclusive, their names, respective residences, date of birth, school district, if any, in which they are in attendance, names of the parent or parents, guardian or other person having control or charge of the child.

   Also such information relating to handicaps insofar as they are known to the parents or guardian of the minor, to illiteracy, to employment, and to the enforcement of the law relating to child labor and compulsory education. That the data so obtained be made available to agencies and personnel authorized to receive such data.

   Eligibility to obtain federal or other funding for programs or projects is generally based upon accurate statistics. No statistics are now available as State-mandated ethnic surveys are on a "visual" basis. Present records do not disclose where Indian students are in the

school system, how well they achieve, how well they assimilate, how well they stay in the system, and what happens to them after they get out of the system.

Public school officials do not know the exact number of Indian children who are presently attending the Los Angeles City Schools nor do they have access to information on which to base projections of the future enrollments of Indian children or for purposes of advance planning to meet special educational needs. School officials in other urban areas that are impacted by Indian children are similarly hampered.

9. Implementation of Senate Joint Resolution No. 32. The use of Public Law 874 and ESEA Title I funds are now restricted in their use to schools close to reservations impacted by Indian students. Upon implementation by the federal government of SJR 32 these funds could be used in urban areas impacted by Indian students on concurrence of the federal government.

10. The free school lunch program be extended to include all needy children including Indian children.

11. Ways and means be explored to provide more funding, by way of scholarships or other assistance, for Indians who wish to pursue higher education in lieu of vocational education.

Employment

1. The Bureau of Indian Affairs relocation and job placement program for California should be administered by the Sacramento Area, Bureau of Indian Affairs office. The Bureau of Indian Affairs should bring the program to the attention of the State Advisory Commission on Indian Affairs and other agencies concerned with health, education, welfare, and employment. The program and resultant benefits and deficiencies should be reviewed and approved by state agencies before further relocatees are brought into the state. In addition, all agencies should review the existing relocation and job placement program in California.

2. Improved screening and orientation procedures. An improved method should be developed by the Bureau of Indian Affairs before the approval of applicants to be relocated through the employment assistance and job placement program. An awareness of the unfamiliar

problems to be faced in urban living, the location and extent of services to be found, an acquaintance with transportation, buying and household facilities were all cited as necessary for the relocatee to be able to cope with the new and often alien situation.

A well planned and supervised orientation program at the new location should be a part of the program. Successful relocated Indians should be recruited to assist in the second phase of the program.

3. The Bureau of Indian Affairs should be encouraged to relocate Indians to cities nearer the reservations from which they come. Loneliness and other cultural problems would be reduced to the minimum when visitations to the home reservations are more easily attainable.

4. Vocational Training.

   a. Improved Bureau of Indian Affairs training programs in vocational skills was recommended by most Indians as the only means of reducing the rate of unemployment and making it possible for the Indian people to raise their standards of living. Indians complained that upon entering the labor market, they frequently found themselves under-skilled and unable to compete with adequately trained workers.

      To prepare the trainee for gainful employment, many Indians indicated that there should be a longer training program and careful choice made of training schools with active, responsible supervision maintained of the training program. A contractual arrangement might be explored with various unions for supervision of the various training programs to assure their adequacy.

   b. In order to be employed, some employees must provide their own tools. The tools necessary for employment are not presently provided under the Bureau's program and no provision has been made for their acquisition. This deficiency in the program should be rectified by the Bureau.

   c. When apprenticeship is required for membership in local labor unions for subsequent full employment, the Indians believe negotiations between the Bureau and local unions for participants in the programs to serve as apprentices and become union members, should be completed prior to locating the Indian in an area.

d. To further improve the financial position of the relocatee's family, training for wives and women in the family should be a part of the total program. Training in power sewing and other skills was voiced as a means of overcoming some of the financial hardships besetting the urban Indians.

e. It was suggested that an arbitrary ceiling has apparently been placed on the Indian capabilities by the limitation of the present employment assistance and job placement program. Indians who testified, stressed a need for scholarships and other assistance for Indians who wish to pursue an education outside the vocational skills field.

5. Federal, state, and local agencies and departments should actively recruit and train Indians for employment in their departments. The scarcity of Indian employees in present government offices was called to the attention of Commission members by many witnesses.

6. Training slots should be increased and special accommodations made for disadvantaged California Indians.

Public Health

The testimony presented to the Commission in the area of health and health services as it concerned urban Indians was indeed dismal. The present health services appeared to be unknown by some Indians and poorly utilized by most. The federal government includes in its relocation program a prepaid health plan. The day the Indian person is employed, the government discontinues premium payments. There is no dental services included in the health coverage despite the fact Indians universally have serious dental problems.

1. It is recommended that the federal government take more responsibility for the health services to relocated Indians.

2. Some type of dental program be included in the health coverage.

3. Some provision be made by the federal government to continue health coverage for one year following initial employment.

4. A limited amount of field outreach programs be developed to follow the relocatee as a follow-up service to assist the relocatee in using available services.

5. The Bureau of Indian Affairs maintain statistics on each relocatee for two years including such data as present address, size of family, present employer, and any major problems, social health, employment, etc.

6. An improved orientation program be developed for relocatees and their families to familiarize them with existing health services available in the area - family planning, pre-natal clinics, postpartal services, visiting nursing associations, child development, and other allied services.

7. Indians of California be covered by Medicaid categorically for the next five years.

Social Welfare

The State Advisory Commission on Indian Affairs has strong reservations to the concept of the Bureau of Indian Affairs job placement and relocation program. Serious questions are raised as to the advisability of removing individuals long distances from their homes, disrupting extended family life, removal of Indian from the tribe and separation of Indian families from parents and friends. The effects are all too often unsatisfactory. Problems are created because of the inability of the average relocatee and family to adjust to the alien, crowded, impersonal, competitive, new environment.

The pre-screening process for intended relocatees should present a more realistic program on pre-location, where not only the advantages, but the disadvantages and limitations of the program are discussed and understood by the intended participant.

The concept for training the Indian people for meaningful employment is admirable, particularly if the training is provided in the immediate reservation area. Moving and dislocation should occur only after skills are acquired and then only on a volunteer basis.

The relocation program has value in the concern shown for the improvement of skills. Modern concepts in the training program such as those developed by labor and welfare departments should be used, i.e., pre-vocational training and work habit training. This training should take place as a part of the screening process prior to the trainee being accepted for relocation.

In the relocation and job placement program, there should be a built in guarantee of the return of the participant and his family to the reservation for a period of up to two years.

There should be a planned and assured Bureau of Indian Affairs responsibility written into the program for the welfare of the recipient and his family and medical care of the recipient and his family for a period of two years. Statistics should be kept by the Bureau on each individual and family for a two year period, for continuous evaluation of the program.

The Bureau of Indian Affairs should recognize the need for and assist in the development of social activities, sports, and recreation by assisting in the rental of space for such activities and the rental of equipment and maintenance of both. Such a center should be multi-purpose, serving as an information center as well as providing room for counseling and other types of needed services.

The responsibility for the success of the relocation program in California should rest in the Bureau of Indian Affairs Sacramento Area Office. In order to be sensitive to the needs of the Indians and respond promptly to meet those needs, local control is essential.

Welfare departments are encouraged to employ as aides to the staff, Indians to help in the delivery of social services and assist in counseling, interpretation, completion of forms and other stated work to increase income.

The Department of Social Welfare should accept as a responsibility of the department to move Indian welfare recipients within the state where they can obtain employment, happiness, and maximum personal satisfaction.

Indians should be encouraged to use all the services of the welfare department including (1) child care, (2) family planning, (3) W.I.N., (4) budget preparation, and (5) all other services to strengthen individual family life.

Indians should be encouraged to seek employment as staff members of Social Service agencies and to take advantage of scholarship programs leading to a Masters of Social Work degree.

STATEMENT OF THE CALIFORNIA TRIBAL CHAIRMAN'S ASSOCIATION

BEFORE THE

SUBCOMMITTEE ON INTERIOR AND RELATED AGENCIES

OF THE COMMITTEE ON APPROPRIATIONS

HOUSE OF REPRESENTATIVES

April 9, 1974

Any logical assessment of the California Indian Reservation situation presents two conclusions that have a direct bearing on our past and current problems as they relate to services provided by Federal agencies. Unfortunately, by the very nature of historical events in California, we are different, and more importantly, this difference has provided the Government with a convenient excuse to reduce the priority of our needs and to provide only minimal token services.

For the purpose of accurately assessing the California situation, we would like to mention some of these differences.

1. California Indian Treaties were never ratified.

2. As a direct result of our non-treaty status and with few exceptions, California Indians did not receive the substantial land base promised. History is brutal in recording the circumstances under which limited numbers of tribal remnants eventually inherited the miseries of the Rancheria system. Most of these small reservations were to be less than 200 acres and of such poor quality that even the most callous land owners failed to protest their acquisition. The majority of California Indians were less fortunate. For them, there was to be no land base, a condemnation to near total program exclusion.

3. California Reservations are widely distributed in generally remote areas.

4. California is a Public Law 280 state.

5. A judicial opinion by the California Supreme Court (Acosta vs. San Diego County), a Legislative Resolution (AJR 38 - 1953) and (March 17, 1954 - Knight) for all practical purposes pressured the Bureau of Indian Affairs and the Indian Health Service into withdrawing services from California in 1954.

California Disadvantages

1. Because the California Treaties were never ratified, we have been limited in our efforts to negotiate from a maximum legalistic stature. As a result, we have become accustomed to accepting left-overs from the Bureau of Indian Affairs, and Indian Health Service budgets.

2. Because of our limited land base, it has been apparently easy for government to overlook California and concentrate on the development of larger reservations in other states. Then too, the lack of resources of the small reservations prohibits us from competing for funds. Large reservations in other states can effectively qualify and negotiate for programs because they have the resources to hire attorneys, professional planners, program development specialists, etc., and more importantly, the funds to make necessary appearances in Washington to promote legislation and programming. To date, we have had to rely almost entirely on individuals, who have assumed the financial burden of promoting recognition of the federally recognized tribes in this state.

   While we have formed association of Tribal Chairman and are incorporated in the State of California as a non-profit corporation, we re-emphasize our almost impossible situation of having to compete with other reservation and non-reservation organizations which are provided with substantial federal funds for travel and administration purposes.

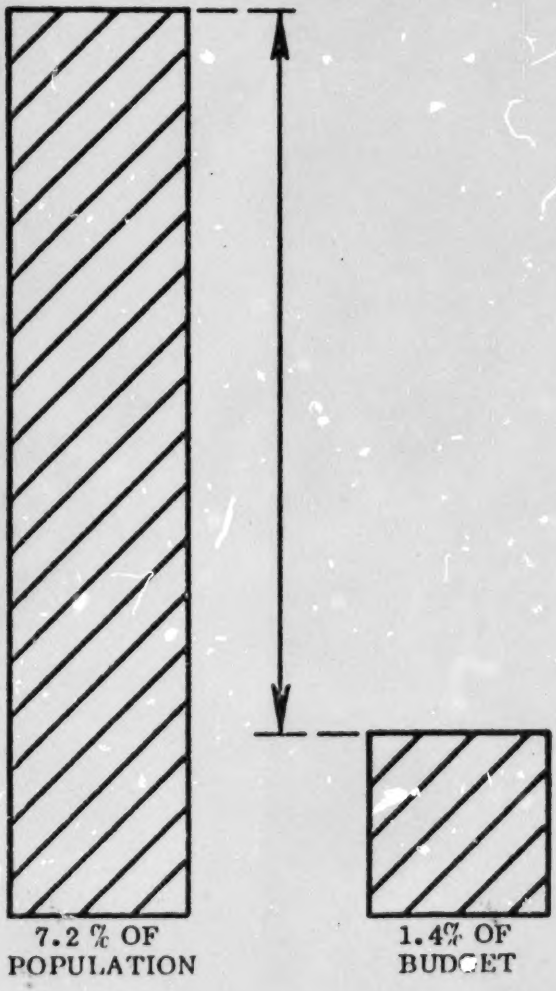
3. Both by legislation and administrative policy, the federal government has obviously designed its Indian programs for larger reservations. Likewise, the population criteria often imposed, systematically provides for the exclusion of smaller tribes.

   There is little wonder that we view our stagnated dilemma with profound hopelessness.

4. Public Law 280, however well intentioned, provides the terminal aspect to a cancerous situation. Like adding insult to injury, local interpretations of the law have reduced the national policy of self-determination to shambles. Enforcement of local ordinances have not only dictated but restricted home improvements. The imposition of possessory interest taxes has and threatens to further reduce Indian income and the zoning of Indian lands has negated development of potentially valuable lands.

5. Actions in the early 1950's by the Executive, Judicial, and Legislative branches of government in the State of California, however well intentioned, resulted in the further deterioration of an already critical situation. The resulting withdrawal of federal services created a 15 year vacuum from which our reservations have not yet recovered. Recently, some limited services have been restored, but to date there has been no consideration by either the Congress or the federal agencies of the need to compensate for a desperately needed catch-up factor.

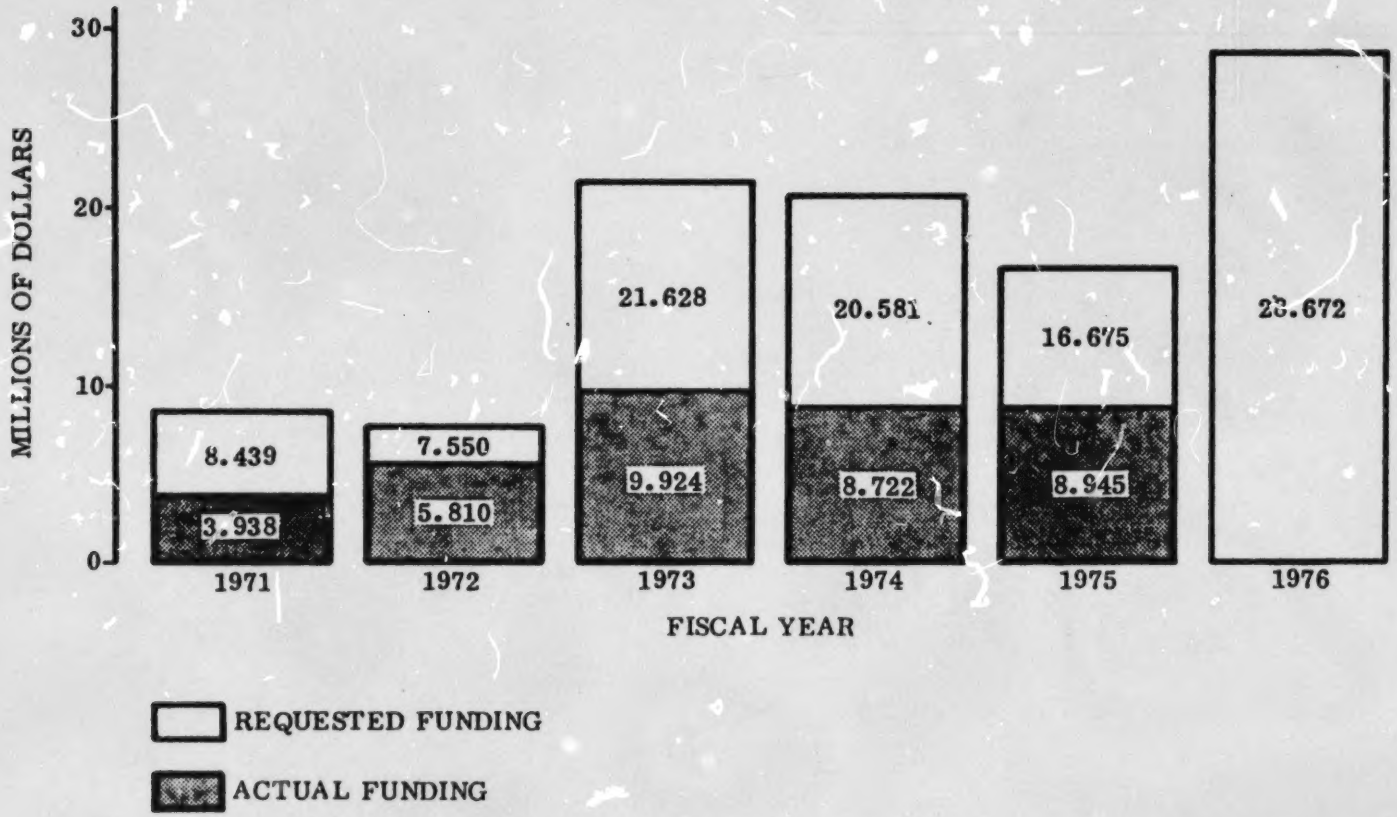
COMPARISON OF CALIFORNIA RESIDENT POPULATION AND BUDGET ALLOCATION - FY 1975



CALIFORNIA	39,017	$8,944,800
TOTAL	543,000	634,682,000

CALIFORNIA TRIBAL CHAIRMEN'S ASS'N. - MARCH 1974

SACRAMENTO AREA PLANNING REQUESTS
FY 1971 THRU FY 1976 VS ACTUAL FUNDING
FY 1971 THRU FY THRU FY 1975



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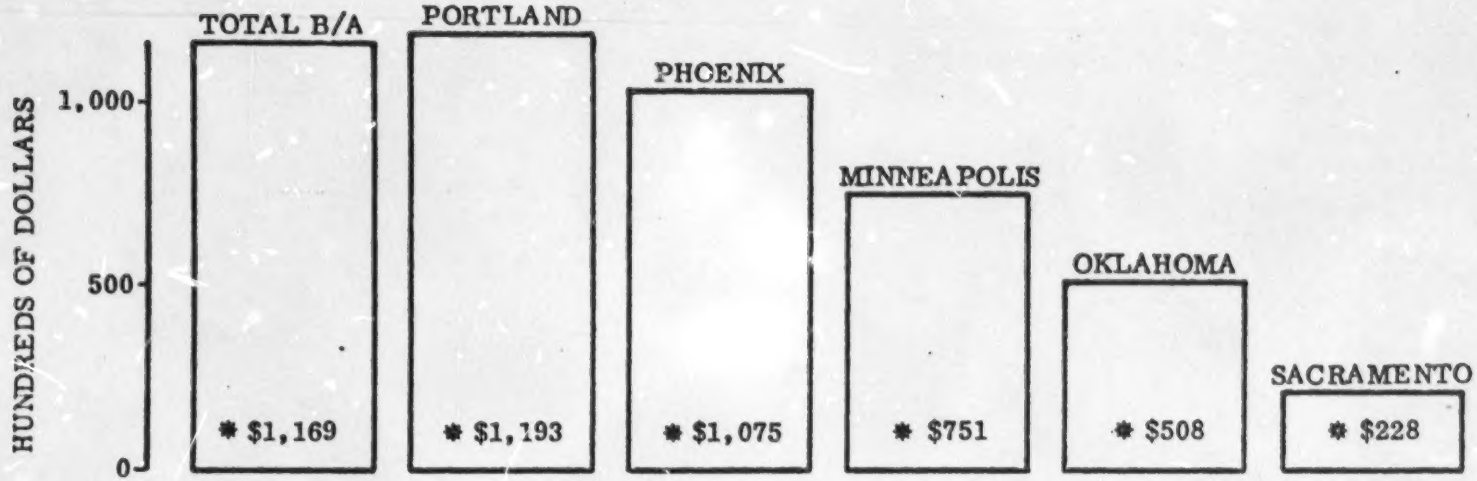
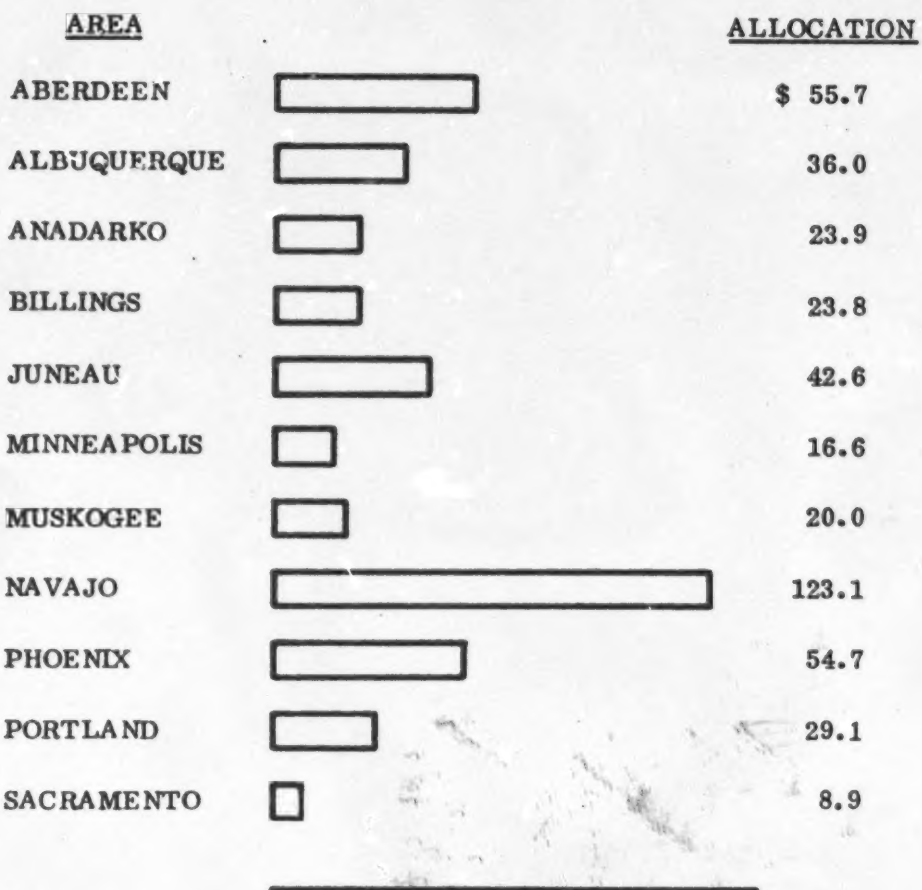
BUREAU OF INDIAN AFFAIRS PER CAPITA ALLOCATIONS – TOTAL BIA & SELECTED AREAS BY SERVICE POPULATION FISCAL YEAR 1975



	TOTAL B/A	PORTLAND	PHOENIX	MINNEAPOLIS	OKLAHOMA	SACRAMENTO
BIA ALLOCATION	$634,682,000	$29,084,700	$54,713,300	$16,614,500	$43,931,800	$8,944,800
SERVICE POPULATION	543,000	25,395	50,879	22,052	86,251	39,017

* PER CAPITA DISTRIBUTION

TENTATIVE BUREAU OF INDIAN AFFAIRS
ALLOCATION BY AREA
FY 1975



CALIFORNIA TRIBAL CHAIRMEN'S ASS'N. - MARCH 1974